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A TREATISE

ON THE

Practice of the Pension Bureau.

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US Pension Bureau

A TREATISE

ON THE

PRACTICE OF THE PENSION BUREAU,

GOVERNING THE

ADJUDICATION OF ARMY AND NAVY PENSIONS,

BEING THE

UNWRITTEN PRACTICE FORMULATED,

BY

CALVIN B. WALKER,

DEPUTY COMMISSIONER OF PENSIONS.

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DEPARTMENT OF THE INTERIOR,
PENSION OFFICE,
Washington, D. C., August 1, 1882.

SIR: In order that greater uniformity may be had in the adjudication of claims for pension, it is my desire that the unwritten practice of this Bureau be formulated.

You are therefore requested to prepare at an early date a "Treatise" covering the practice in all classes of claims.

W. W. DUDLEY,
Commissioner.

C. B. WALKER, Esq.,
Deputy Commissioner.

DEPARTMENT OF THE INTERIOR,
PENSION OFFICE,
Washington, D. C., November 10, 1882.

SIR: In accordance with your request of August 1, 1882, a "Treatise on the practice of the Pension Bureau" has been prepared.

I have the honor to present the same herewith for your consideration.

Very respectfully,

CALVIN B. WALKER,
Deputy Commissioner.

Hon. WM. W. DUDLEY,
Commissioner.

DEPARTMENT OF THE INTERIOR,
PENSION OFFICE,
Washington, D. C., November 15, 1882.

SIR: I have examined the "Treatise on the practice of the Pension Bureau."

In my opinion the medical propositions are correctly presented, including all questions relating to pathological sequelæ.

Very respectfully,

T. B. HOOD, M. D.,
Medical Referee.

Hon. WM. W. DUDLEY,
Commissioner of Pensions.

DEPARTMENT OF THE INTERIOR,
PENSION OFFICE,
Washington, D. C., November 15, 1882.

SIR: I have examined the "Treatise on the practice of the Pension Bureau."

It correctly and succinctly presents the practice of this office, and the same is hereby approved.

W. W. DUDLEY,
Commissioner.

C. B. WALKER, Esq.,
Deputy Commissioner.

A TREATISE ON THE PRACTICE OF THE PENSION BUREAU.

1. The laws of the United States governing the granting of Army and Navy pensions and bounty land warrants, decisions of Secretaries of the Interior, opinions of Attorneys General, and the rulings, orders, and regulations of the Commissioners of Pensions thereunder, are set forth and conveniently arranged for reference in the Digest recently published by order of the present Commissioner.

2. In the adjudication of claims for pensions there is an unwritten practice with which all who perform a part in the settlement of claims should be familiar. This unwritten code is the result of the experience of different administrations; therefore it has been carefully considered from time to time by those whose ability and experience qualified them to establish the practice herein formulated, the result of which is entitled to respect.

3. To reduce such unwritten practice to writing is the chief object of this brief treatise. To accomplish the purpose frequent reference must be had to the contents of the said Digest. As the unwritten practice is founded upon the laws, decisions, rulings, and orders, a part of the written law must therefore of necessity be embodied herein.

COURSE OF PROCEDURE.

No. 63 of the orders of the present Commissioner of Pensions defining the course of procedure in the adjudication of claims is as follows:

To settle the practice of the office and to enable all to understand the course of procedure in adjudicating claims it is announced:

1. On the filing of a claim its receipt will be acknowledged; it will be stamped, jacketed, the jacket correctly briefed in Mail Division, and sent the next day to the Record Division, where it will be immediately numbered, and

forwarded the same day, or as soon as possible, to the adjudicating division to which it belongs, or, if there is an attorney appointed, to the Division of Special Examination, where the standing of the attorney will be properly indorsed thereon, and then sent on the same day to the adjudicating division.

2. In the adjudicating division the claim will be at once examined as to the proper execution of the declaration and sufficiency of the allegations. If insufficient, the claimant and attorney will be so notified, and the case will be sent to the rejected files. If sufficient, the claimant and his agent will be informed of the number, and that the claim will be settled as soon as possible. The proper calls will at once be made on the Adjutant and Surgeon Generals, and the invalid claimant will be ordered for examination. On receipt of reports from the Adjutant and Surgeon Generals the case will be assigned to an examiner as soon as practicable, who shall at once call, through the attorney, for all the evidence necessary to complete the claim, thereby notifying him that the office is ready to consider the case and the evidence thereafter filed. The year of neglect on the part of the agent or attorney in the case to reply to the call of the office will begin from the date of this order. The examiner will briefly and plainly note on the jacket the date of such call and the character of such notice.

3. When the evidence is complete the examiner shall brief the case, and submit it for "admission" or "rejection" in accordance with Order No. 62. The chief of the division will then send such adjudicated case to the Board of Review, and unless the case is sent back to him as improperly submitted, his connection with such claim shall then cease. If improperly submitted, the claim will be re-adjudicated.

4. The Board of Review will, in accordance with order No. 59, review such adjudication and return to the chief of the proper division all claims improperly submitted and such as are rejected, and properly rate, after medical review, all submitted cases and send the same to the Certificate and Account Division.

5. The Certificate and Account Division will make proper record, have certificate, order to inscribe, and notice to claimant and agent properly made and sent without delay.

6. Should an appeal be taken from an adverse decision of this office, the law clerk, under the direction of the Commissioner, will prepare the papers for submission to the Secretary. If the decision is reversed, the case will be sent to the adjudication division for action in accordance with decision.

Order 62 above referred to is as follows:

It is hereby ordered that in all cases submitted for review, the brief shall embody the facts, essential points, character, and weight of all evidence, including mention by name of all persons testifying, certifying, or making statements, and a reference to all the papers to be examined by the reviewers, except the reports of the Adjutant General, Surgeon General, Examining Surgeons, and certificates of disability, which must be attached to the brief. All papers in a case which are not to be considered by the reviewer shall be col-

lected together in a separate jacket. The brief shall show the date of filing of all the evidence, whether official reports, certificates, affidavits, statements, or reports of the War Department as to the "presence or absence" of affiants, which dates are to be noted in red ink immediately following the name of the person testifying. If a report of the Division of Special Examination accompanies a case, a reference to the same, with the date of filing, shall appear on the brief. If an admitted case is re-submitted to the Board of Review upon a report from the Division of Special Examination, a new half-face shall be attached to the original brief. In all cases it shall appear whether the case is submitted for admission or rejection; if submitted for admission, there shall be entered on the brief the words "submitted for admission;" if for rejection, the words "submitted for rejection," and the examiner may, if he so desire, give briefly his reasons for his action in the premises. Whenever a case is ready for submission, the examiner shall brief and return the same to the chief of his division for submission to the Board of Review.

Order No. 59 above referred to is as follows:

Matters of fact, and the judgment of the office upon them, as well as the ascertainment of the character and reliability of testimony and credibility of witnesses, are questions solely for the adjudicating divisions; and the papers in the case, together with the brief, are to be transmitted to the Review Board for review. The sole function of the Review Board is to treat cases judicially, upon the papers, and after a finding upon the law and the facts, cases are then to be referred to the Medical Referee for his decision upon the medical questions involved, based upon such finding, and he shall then return the same to the Review Board, with his opinions, for its final report. (See Digest, page 250.)

The first action to be taken in a claim by an adjudicating division is to determine the sufficiency of the declaration. This is a duty which should be carefully performed. It is all important to the claimant that the declaration be properly executed in accordance with section 4714 of the Revised Statutes* (see page 41 of Digest), and that it contains a clear and intelligent description of all disabilities for which pension is claimed and the manner in which the same were contracted, and conform in all respects to the regulations set forth in the beginning of the Digest.

DECLARATION FOR INVALID PENSION.

1. Under section 4714 of the Revised Statutes, all declarations must be executed before a Court of Record or some

*References to the Digest are to the edition published in 1882.

officer thereof having custody of its seal, save only such exceptions as are therein mentioned. As to what are "courts of record" see opinion of Attorney General Wirt under such title, page 151 of Digest.

2. In examining a declaration for an original invalid pension to determine its sufficiency the following points must be considered:

a. Whether executed before the proper officer.

b. Identifying witnesses, and in addition to the formal parts the facts in regard to the following points must be covered by allegation:

c. Service;

d. Personal description;

e. Description of disability or disabilities claimed, the facts connected therewith and incurrence thereof;

f. Hospital treatment;

g. Prior, if any, and subsequent service;

h. Residence and occupation before the war and at time of filing claim;

i. Extent of disability claimed with regard to performing manual labor.

AMENDMENTS TO DECLARATION.

1. To be received as sufficient to fix date of commencement of pension, it is not required that a declaration contain all of the above statements, but if in any other form, it cannot be said to be complete. In office parlance a declaration is said to be formal when executed before the proper officer, and hence informal when not so executed.

2. When a formal declaration has been filed and properly witnessed and one or more of the above statements omitted, the same may be supplied by subsequent affidavit amending the declaration, except that the original declaration must contain some description of the disability for which pension is claimed and the incurrence thereof, which description may also be amended by affidavit. While a formal declaration, imperfect in its allegations, may be

cured by affidavit, yet if a new disability is claimed a new and formal declaration therefor must be filed, and pension for same, if allowed, must commence at the date of filing such new declaration, if filed since June 30, 1880. (See paragraphs Nos. 10 and 17 of supplement to Digest of Decisions.)

3. For commencement of pension when an informal declaration has been originally, and a formal one subsequently filed, see paragraph No. 52 of supplement to Digest of Decisions overruling No. 10 of said supplement.

4. Great care should be taken by the examiner to observe whether the evidence filed by the claimant in a case from time to time supports the disability alleged in the declaration. Often one disability is alleged and a different one proven. This may occur for different reasons, and for such as should not prejudice the case. Claimants and their agents are not often physicians and may give an improper diagnosis of their cases. A certain disability may be described and called by an incorrect name, which fact should not militate against a case. (See paragraph 4, page 169 of Digest.) Often in such cases no change is required in the declaration. Such a principle may apply as is laid down in paragraph 5, under title of Declarations, page 153 of Digest. Again, it may be necessary to modify the declaration in accordance with the facts established; in such cases, the claimant's interest should be carefully guarded and he promptly notified.

FACTS NECESSARY TO ESTABLISH AN INVALID CLAIM.

1. A sufficient declaration being on file for an invalid claim, to establish the same it must be proven by competent and satisfactory evidence:

a. That the claimant was an enlisted soldier or sailor in the Army or Navy of the United States, or of that class of persons mentioned in section 4693 of the Revised Statutes.

b. That such soldier contracted an injury or disability in said service.

c. That the same was contracted in the line of duty.

LINE OF DUTY.

1. It will be observed that to obtain a pension the claimant is required to show, in addition to the fact that he received an injury or disability while in the service, that the same was received in line of duty. It is therefore necessary to have some understanding what is meant by "line of duty" to enable one to have a proper understanding of the proof required to establish a claim.

2. "Line of duty" is a technical phrase, which is defined in the administration of the pension laws as that relation which a soldier or sailor sustains to the military or naval service of the United States when performing an act connected with any of the possible conditions or requirements of the service, or in the observance of the proper orders of his superiors, not in violation of the army or naval regulations.

3. A few observations will be sufficient to illustrate all that is necessary to be said on this subject in a work like this. A soldier may be in the line of duty in general, but not actually, at the time he contracts his disability. For instance, he may be in action and instantly cease to perform his duty and shoot himself purposely. He may be in camp and provoke a quarrel with another and in the contest receive an injury; incur a disability while on leave to attend to private business; or receive an injury through gross carelessness in handling his weapon or while foraging without orders.

4. Such injuries or disabilities, though received while the soldier was in the service, but not in line of duty, are not pensionable. Therefore, to give title to pension the claimant must prove that he received an injury or disability while in the service, and the facts connected with the incurrence thereof must also be made to appear, that it may thus be determined whether the same was received in line of duty.

THE CHARACTER AND AMOUNT OF EVIDENCE REQUIRED TO ESTABLISH CLAIMS FOR PENSION.

1. A claim for pension may be proven by record evidence only, or by record and parol evidence, but never by parol

evidence alone. The Adjutant and Surgeon Generals' reports and certificates of disability constitute what is called the "record."

2. It hardly need be stated that, unless the soldier was discharged for a disability, no certificate thereof exists in his case, and unless the soldier received treatment, no report showing treatment can be had from the Surgeon General; but in every case there must be a report of the Adjutant General to show service of the soldier, or no pension can be granted.

3. The first point necessary to be proven in every case can be established by a report of the Adjutant General only, that officer being the sole judge of all questions pertaining to enlistment, service, and discharge of a soldier. It may occur that an invalid claim can be legally established on the report of the Adjutant General alone, as will hereafter be considered. If not fully established by such report the deficiency in the proof may often be supplied by the report of the Surgeon General, or by a certificate of disability.

4. Parol evidence is testimony of any character, other than record, tending to establish a claim. It is divided into medical and lay. Medical evidence is the testimony of physicians upon medical questions. Lay evidence is all other parol evidence.

5. In the absence of record evidence the second and third points necessary to establish a claim may be proven by parol, and in some cases even by lay evidence, if it be first shown that medical cannot be had. The character of evidence necessary to establish the different classes of claims, and the rules governing the sufficiency of the same, will be hereafter considered in detail.

6. As to the amount of evidence necessary to establish any given claim only general rules will be given; therefore, when it is hereinafter stated that the testimony of a certain number of witnesses will establish a specific point, it must always be understood that the rule is given upon the presumption that nothing adverse to the claim appears in

the case, that the affidavits of the witnesses are full and specific, and the testimony in all respects is in accordance with the office requirements.

7. A doubt may arise in regard to the merits of a case and a large number of affidavits be filed, all of which may not prove the claim. Let it then be remembered that the statements in regard to the sufficiency of parol evidence are made with the qualifications stated.

WITNESSES, AND THE OFFICERS BEFORE WHOM EVIDENCE MAY BE VERIFIED.

1. An affidavit to be complete should show what relation the witness sustains or sustained to the claimant; that is, whether physician or neighbor, commissioned officer, or comrade.

2. Every witness should state whether he is directly or indirectly interested in the prosecution of the claim in which his testimony is given. It should always be shown whether a witness testified from personal knowledge or not; if so, it should appear that he possessed such knowledge, and he should state his means of information.

3. Joint affidavits are objectionable, for the reason that a witness should not merely confirm the statement of other parties, but each witness should make a separate, specific, detailed statement of the facts to which he testifies.

4. Testimony to have the greatest weight should be in the handwriting of the witness, and should be free from interlineations; if material interlineations have been made, the officer before whom such testimony is verified should certify that they were made before signing.

5. It is important that claims for pension be established by witnesses who are not relatives of claimants, but testimony of relatives who are disinterested will be accepted. (See paragraph 1, under the title of "Evidence," page 168 of the Digest.)

6. The official certificate of judicial officers using a seal, or of commissioned officers of the Army or Navy in actual

service, will be accepted without affidavit; and the testimony of examining surgeons of the Pension Office need not be verified, unless the title to pension in doubtful cases rests on their evidence alone, when its verification may be required. (See order of the Commissioner, No. 77.)

7. All evidence may be verified before an officer authorized to administer oaths for general purposes. Any officer before whom evidence is verified must set forth in his certificate that he is not interested in the prosecution of the claim in which such testimony is to be used, for the reason that evidence verified before an officer who is interested in the prosecution of the claim will not be accepted. (See paragraph 1, page 129 of the Digest.)

8. The officer before whom evidence is verified should certify as to the credibility of the witnesses, and if they sign by mark, he must certify that their testimony was read to them and the contents fully made known to them before their oath thereto was administered. The official character and signature of the magistrate or notary public before whom evidence may be verified must be certified to by a proper officer of a court of record, under the seal of such court. When a notary public or magistrate has filed his commission, or a certified copy of his appointment, with his signature attached (if a notary public also his official seal), and the certificate of the clerk of the court or other proper officer certifying to the genuineness of the signature in this office, all evidence verified before such officer will be accepted without further attestation during the period of his term of office.

DUPLICATE CALLS FOR EVIDENCE.

1. Special attention is invited to the decision of the Hon. Secretary of the Interior under head of "Requirements," paragraph 1, page 212 of Digest; also to circular of the Hon. Commissioner under date of March 24, 1882, in regard to duplicate calls for evidence.

2. When a call for evidence is made in a case it should, as far as it is possible to ascertain it at that time, include

all that is necessary to establish the claim. Technically speaking, a duplicate call is always improper, and that is what is forbidden. To avoid such errors no call for evidence should be made from the entries on the jacket. When the evidence called for is filed it may not be sufficient for a number of reasons. The affidavits may be too general in terms, or it may be clear that the affiants have no personal knowledge of the facts stated therein, or they may develop such facts as to make further inquiry necessary. But the original call should not be repeated in the same form.

3. If the evidence does not cover the points it should be stated wherein it is insufficient. The claimant is at all times entitled to know the exact condition of his case. When a further requirement is necessary, a full explanation should be made showing why it is necessary, and a good and sufficient reason given therefor.

JACKET ENTRIES BY EXAMINERS.

1. In all classes of claims the entries on jackets containing papers should be made in a legible handwriting, the dates given, with the initials of the examiner who made the same, and all abbreviations omitted except such as are clearly intelligible. Such entries should give a full and complete history of every action taken in the case and the date thereof.

2. When evidence is filed with the papers the entry on the jacket of the call therefor should be at once canceled: but if it has been furnished without a call for the same having been made, the entry should show the filing thereof.

3. Great care should be observed by examiners to avoid, under any circumstances, placing important papers on file without making the required indorsement; when evidence is called for, the names of the attorneys through whom it was made should appear, and so aid in avoiding mistakes as to their recognition. The entry "Called on attorney" is not complete; his name should be given.

4. As has been stated, no calls for evidence should be made from the entries on the jacket, for the reason that the

claim may have been in the hands of different examiners and the jacket not properly indorsed.

5. By a careful observance of these rules mistakes may, to a great extent, be avoided, and the office not embarrassed by examiners making calls for evidence already on file, and recognizing attorneys who are not authorized to act for claimants, and giving condition of claims from incomplete and incorrect entries on jackets. When a jacket becomes so worn as to be unfit for further use, all the entries on the old should be carefully spread upon a new one by the examiner, and the old preserved for reference.

REPORTS FROM THE WAR DEPARTMENT.

1. To obtain the record evidence required in a case, calls for the same should be on the War Department in accordance with the allegations of the declaration.

2. Calls on the Adjutant General should be made for a report of the service and disability of the soldier, and his full military history; except that in gunshot wound and injury cases a call should be made for his service, and specific information concerning the wound and injury alleged.

3. Calls on the Surgeon General are necessary *in all cases* (except as specifically stated herein) notwithstanding the fact that no hospital, or other treatment in the service may be alleged, and none shown by the report from the Adjutant General or by the evidence on file in the case.

4. When it appears from any paper filed in the case that there was hospital treatment, although the claim may appear to be proven by a report of the Adjutant General, the practice of allowing such cases, in the absence of one from the Surgeon General, is not to be approved; for the reason that such report might give information concerning the character of the wound which would aid the office in fixing a just and equitable rate, and information be thus obtained as to the nature of disabilities that may not be pensionable, and further inquiry as to the merits of the claim might become necessary.

5. Where it appears from the report of the Adjutant General, or otherwise, that the soldier was discharged on a Certificate of Disability, the same should be obtained and applied to the case. These certificates are issued in duplicate; one is filed in the office of the Adjutant General, and the other in this office, and ordinarily no call on the Adjutant General is necessary to obtain the same.

6. It may occur that a Certificate of Disability exists and no duplicate is filed in this office or in that of the Adjutant General. In such cases, a call should be made upon the Second Auditor of the Treasury for a copy of such part of the final statement of the soldier as relates to his disability.

PROOF IN GUNSHOT WOUND CASES.

1. Where a report of the Surgeon General is found for any cause not to be necessary, and the disability alleged by the soldier is a gunshot wound received in action and line of duty, if the report of the Adjutant General shows the service of the soldier to be as claimed, and that he was wounded in action, or at a place where a battle is known to have been fought, and locates and describes said wound or wounds, no further evidence is required to legally establish the claim, and it is held to be proven on the record.

2. Claimant should then be ordered before such examining surgeon or board as is most convenient for him in regard to distance and means of travel. Should the surgeon, upon examination of the soldier, find evidence of the wound alleged in the declaration and shown by the record, and a disability therefrom, the claim is medically established and the claimant is entitled to pension. (For a description of a pensionable disability, see paragraph 8, under title of "Disability," page 158 of Digest.)

PROOF IN GUNSHOT WOUND CASES WHICH ARE NOT FULLY ESTABLISHED BY A REPORT OF THE ADJUTANT GENERAL.

1. On such records as have been described, and under the circumstances mentioned, claims for gunshot wounds

should be accepted as proven. To this general rule there are exceptions; for instance, the record may describe a slight flesh wound, and the examining surgeon find evidence of a wound of such a character and resulting in a disability which cannot be accepted as the one described in the record, though answering in description as far as location is concerned.

2. The soldier's claim may be a just one and the record incorrect, or it may be that during the years since the war the soldier has received an additional disability. In such a case, or in any other, where in connection with the report of a medical examination a reasonable doubt is raised on the record, evidence of origin or condition at and subsequent to discharge should be required.

3. Where a report of the Adjutant General shows that the claimant was wounded in action, or at a place where a battle is known to have been fought at the time alleged, but does not describe the wound, the claim in such cases is not proven by the record. Under such circumstances it has been the practice that claimants should be ordered for examination, under Order 75 (see supplement of Digest), so that the claimant may be examined for all other physical signs of wounds besides the one alleged, and the report of such examination should show compliance with the order.

4. Under section 4 of the statute passed by the 47th Congress July 25, 1882, examining surgeons are required to make such reports of all medical examinations; but in the event that such a report is not filed in the case, then the claimant should be examined in accordance therewith.

5. Hereafter, in all classes of cases orders for medical examinations should, by virtue of the provisions of said statute, be of the character mentioned. When such an examination has been had and the surgeon finds no other physical signs of any other wound than that claimed, such report, in connection with the allegation of the claimant, is accepted as sufficient to locate and describe the wound as proven by the record, though not particularly located or described

therein,—for the examining surgeon's report is not to be taken as evidence of origin, only as evidence of location and description. (See paragraph 6, under head of "Sufficiency of Evidence," page 169 of Digest.)

6. It is far better in all cases to obtain a report from the Surgeon-General, if it appear from any paper filed therein that such report would be likely to show any facts regarding the wound. Such cases should be carefully guarded; and where a reasonable doubt is raised, evidence as heretofore stated should be required.

7. Again, cases where a report of the Adjutant General shows that the claimant was wounded at the time alleged and in line of duty, but does not locate or describe said wound, and the report from the Surgeon General shows that he was treated in hospital for a gunshot wound at or about the time alleged, if such report locates and describes the wound claimed, the same is accepted as established on the record, provided the same be found by the examining surgeon, although no special medical examination has been had for other physical signs of wounds.

8. If a report of the Adjutant General shows that the company or regiment of the soldier was in action at the time he states he received a certain wound, the report failing to show that he was wounded as alleged, and if the report from the Surgeon General shows that at or about that time he received treatment in hospital for a gunshot wound, and locates and describes the same, thus showing line of duty, the claim, if a disability from such wound be found by the examining surgeon, is accepted as proven upon the record.

9. In cases where there is such a report from the Adjutant General as last mentioned, also from the Surgeon General, except that the latter does not locate and describe the wound, the same will be accepted as proven by the record after an examination under Order 75, in such manner as has been stated, and upon the filing of a report sustaining the claimant's allegations.

10. Such deficiencies in a report of the Adjutant General

as have been heretofore mentioned may be supplied by certificates of disability signed by the captain of the soldier's company and by his regimental surgeon, and thus legally establish a claim. Such certificates, when so signed, are received as the best evidence of the facts stated therein.

11. Certificates of disability signed by a surgeon in charge of a general hospital are not given so great weight, as they may not show line of duty; for a hospital surgeon, as a rule, does not possess personal knowledge of the facts concerning the manner in which a disability was contracted. (See paragraph 12, under head of Sufficiency of Evidence, page 170 of Digest.)

PROOF IN CASES WHERE THE RECORD SHOWS THE SOLDIER "ACCIDENTALLY" WOUNDED.

1. Where the report of the Adjutant General or a certificate of disability shows the claimant "accidentally wounded" at a given time, locates and describes the wound alleged, but does not show the facts connected with its incurrence, or where the report of the Surgeon General shows hospital treatment for an "accidental wound" received at a given time, locates and describes it, but does not show the circumstances under which it was received, such reports are accepted as proof that the soldier received the wound in the service, but line of duty must be shown by parol evidence.

2. If the record does not locate and describe the wound, evidence should be required covering that point, as well as that showing "line of duty," for every fact and circumstance connected with the incurrence of the wound should be made to appear.

3. Line of duty must be shown for the reason that it is not accepted that the wound was "accidentally" received because it is so stated in the record. The only fact accepted is, that a wound was received at the time and place stated. The word "accidental" shows that the actual facts of the incurrence of the wound were not known, or, in other words, not being known, it was supposed to be "accidental" at the time the record was made.

4. The parol evidence required to prove a claim supported by such a record is the testimony of one of the commissioned officers of the soldier's company or regiment, or if that cannot be furnished, then that of two comrades will be accepted as sufficient. The testimony of such officer and comrades should show that they had personal knowledge of the facts to which they testify and their credibility must be satisfactorily shown. When such parol evidence is filed, the examiner should call upon the War Department for a report concerning the presence or absence of the affiants at the time it is alleged such wound was received. If the Adjutant General reports the affiants present at that time, such claim is accepted as "legally" established upon the record and parol evidence as stated, provided, from the description given of the wound and the facts and circumstances stated in the evidence, no reasonable doubt arises concerning the incurrence of the same. In all cases in which the affidavits of affiants are not in their own handwriting, correspondence should be had directly with the affiants, and specific inquiry made in regard to their personal knowledge of the facts and circumstances to which they testify.

5. Under such circumstances, if the affiants are comrades, inquiry should be made of the postmaster at their places of residence concerning their credibility; but no such information should be requested of postmasters of large cities, it being considered impracticable for them to obtain it. If by such correspondence such doubt is removed the claim should be approved. If not, the action to be taken in such cases must depend upon the judgment of the examiner, who should duly consider all the surrounding circumstances and facts connected therewith.

6. If it appears that the case possesses too much merit to be rejected, a requirement for further evidence should be made or the case referred for special examination. Often much light can be obtained by a medical examination under special instructions.

7. There are many accidental wounds, which appear of record, that were incurred at such time and place and under such circumstances as to make it impossible for the claimant to obtain the evidence required, although the claim may be genuine. Wounds received while on picket, or while foraging, are often of this class. The claimant should therefore be required to give a very full and specific description of the wound, and to state all the facts and circumstances connected with its incurrence, so that it may be possible to form an opinion as to whether the wound was in fact accidentally received or purposely self-inflicted. For instance, pistol-shot wounds received in the hands or feet should be carefully guarded.

8. There are other wounds which in their nature commend the claims. A soldier would not be likely to purposely shoot himself in the head or through the leg. In cases where all the surrounding facts and circumstances are in favor of the claim and it appears that the claimant cannot furnish the required proof, all circumstantial evidence possible should be obtained.

9. The reputation of the claimant for truth and veracity and his standing as a soldier should be inquired into; and, before rejection, the opinion of some officer of the bureau should be obtained as to the merits of the claim.

EVIDENCE IN CLAIMS FOR DISEASES OF RECORD.

1. The number of disease cases that are pensionable is so great that it is impracticable to attempt to consider separately the evidence required to establish each. Only such are specifically considered as will answer for a guide, to enable the examiner to ascertain the proof required in any given case by a comparison with that held to be necessary to establish claims for the different classes of diseases herein specified. Reference will be made to the most common diseases and to some of the pathological sequences therefrom which are accepted as being susceptible of proof.

2. In considering specific diseases, a record of which is

sufficient to show that the soldier contracted such diseases in service and line of duty, reference must be had to Ruling No. 55, page 261 of Digest, under which it will be found that after six months' continuous service immediately following enlistment, uninterrupted by the incurrence of any pensionable disability, certain diseases contracted thereafter will be accepted as due to the service upon record evidence alone, for the reason that, after such service, prior soundness of the soldier may be legally presumed.

3. It will be remembered that, as a rule, in gunshot wound cases established by the record no parol evidence of continuance is necessary, the report of the medical examination, together with the record, being held as sufficient basis upon which to fix the rate of pension.

4. In all disease cases, continuance of the disease, or the result therefrom, together with the degree of the disability existing by reason of such disease since the discharge of the soldier from the service, must be shown by competent and satisfactory evidence. This is required, even though it is shown by the record that the disease is due to the service; the present condition of the soldier is shown by medical examination for the reason that diseases are progressive and changeable and he may have contracted others since discharge.

5. Evidence of continuance should be specific in its character, it being absolutely necessary, particularly in arrears cases, to fix a just and equitable rate from time to time during the years since discharge, the medical examination not being sufficient to cover so long a period as has elapsed since the war. (See circular of the Hon. Commissioner, under date of July 12, 1882, which requires examiners to express an opinion as to the rate of the disability of the soldier from time to time since discharge, and to specify the evidence on which such opinion is based.)

CIRCUMSTANCES UNDER WHICH ORIGIN IN THE SERVICE OF CERTAIN DISEASES IS ESTABLISHED UPON THE RECORD.

1. Diseases shown by the record to have existed at any

time during the service of the soldier, without reference to ruling No. 55, will first be considered.

a. Chronic diarrhœa.
b. Typhoid, malarial, and other fevers.
c. Paralysis.
d. Small-pox.
e. Measles.
f. Sunstroke.
g. Malarial poisoning; also

Pneumonia and other acute diseases are generally accepted as shown to be due to the service by record evidence alone; that is, by a report of the Adjutant and Surgeon Generals, or a certificate of disability, nothing adverse to the claim appearing therein.

2. In determining whether anything adverse appears of record it must be remembered that there is a limited time in which diseases develop after they have been contracted. It is a generally accepted medical fact that measles develops itself, or makes its appearance in the form of eruptions, in from ten to fourteen days after it has been contracted; small-pox in twelve days; typhoid, malarial, and other fevers develop in about three weeks after they are contracted. Pneumonia and many other acute diseases may be contracted in a *very brief* time, and one may be immediately stricken with paralysis or with a sunstroke.

3. In deciding the question of origin of fevers reference should be had to the season of the year and to the location of the country in which it is claimed the same was contracted. If there is a record of such diseases, or of measles and small-pox within a less period of time after the enlistment of the soldier than it is generally accepted that the same could have been contracted, the record will not be accepted as showing that such diseases are due to the service, and claims therefor must, as a rule, be rejected. As the period in which these diseases will develop may vary, when cases are presented in which it is claimed that the said diseases developed in a shorter time than heretofore stated, but

within a few days of that time, they should be submitted to the medical referee for his personal consideration and decision.

4. In general, it cannot be said that chronic diarrhœa will develop so as to be pensionable within less than three months. If there is a record of said disease within that time after the soldier's enlistment, the origin of the disease will not be accepted as due to service upon record evidence alone, and proof of prior soundness and origin should be required.

5. It must be remembered that it is not in any case the disease for which pension is granted, but for its effects—that is, the disability arising therefrom. A record of measles, typhoid fever and other similar diseases, nothing adverse to the claim appearing in the record does not give title to pension, the soldier having long since recovered, but he may be suffering from the effects thereof. If so, and he can prove a pensionable disability therefrom and continuance since discharge, the claim is established upon the record and by such proof, provided the medical examination supports his claim.

6. Although the character of the disease may be such that it still exists, it is the disability therefrom that gives title to pension, and not the fact alone of the mere existence of the disease.

PATHOLOGICAL SEQUENCES OF DISEASES HERETOFORE CONSIDERED.

1. In stating the pathological sequences of diseases which are accepted as being susceptible of proof it is not to be understood, in all cases, that there is a direct affinity between the original disease and the result—that is, that the one necessarily follows the other, but that such result is susceptible of proof. For instance, hemorrhoids and fistula-in-ano are direct pathological sequences of chronic diarrhœa, viz, there is an affinity between the two: whereas consumption is a sequence of chronic diarrhœa, which is susceptible of proof; but it is not accepted that under any circumstances

consumption is a necessary result following chronic diarrhœa; though, by reason of a reduced or extremely emaciated physical condition, either from chronic diarrhœa or from any other debilitating cause, it may follow.

2. For the purpose of this work no distinction will be made between these two classes of pathological sequences, as in each case the same must be proven; for the reason that, while there may be generally a direct affinity between two diseases, one being a natural result of the other, it may not be so in the case under consideration; therefore all sequences must be proven alike.

3. A board of surgeons, upon a personal examination of a claimant, may find that he is disabled by reason of a sequence from some specific disease. If the report of such examination states facts sufficient to enable the Medical Referee to pass upon the question of sequence involved, and should he accept such sequence, no rate for arrears therefor can be given without proof as to the date said sequence first appeared, and proof of the condition of the claimant as to the original disease at such time.

4. The question of further proof of continuance must depend upon the character of the disease. Such medical questions should always be brought to the personal attention of the Medical Referee before accepting a sequence in the absence of evidence.

5. The following pathological sequences are accepted as susceptible of proof:

a. Of *chronic diarrhœa;* hemorrhoids, fistula-in-ano, rheumatism, disease of heart, general debility, and consumption.

b. Of *typhoid fever;* diarrhœa, and derangement of the nervous system.

c. Of *malarial poisoning;* enlarged spleen, and disease of stomach and liver.

d. Of *small-pox;* disease of eyes.

e. Of *measles;* disease of lungs.

f. Of *sunstroke;* paralysis, blindness, epilepsy, and disease of heart, and

g. Of *pneumonia;* disease of lungs.

6. It should be stated that malarial poisoning is a condition resulting from malarial fever, or a protracted attack of the same, or from repeated attacks of chills and fever.

7. Where there is an accepted record showing chronic diarrhœa due to the service, and either of the said sequences are shown by competent and satisfactory evidence to have resulted therefrom, if a disability has resulted from such sequence since discharge, a claim for chronic diarrhœa and results is established on the record and by such proof, and the claimant is entitled to a rating according to the degree of disability shown to have resulted from such sequence.

8. To prove such a sequence it is not to be presumed, because such a disease *may* result from chronic diarrhœa, and the claimant is shown to have had that disease in the service, or either of the said sequential diseases mentioned since, that therefore the pathological sequence is established. If such a sequence exists, it is to be proven by the best obtainable evidence, showing the actual facts as to the claimant's condition from time to time subsequent to discharge.

9. For instance, if it is claimed that consumption is the result of chronic diarrhœa, the condition of the claimant must be shown from time to time, and such a reduced and emaciated condition be made to appear as to make it reasonable to presume that the consumption shown to exist followed the chronic diarrhœa, and that no other sufficient cause for the consumption intervened.

10. What has been said in regard to establishing a claim for chronic diarrhœa and results is applicable to the other diseases mentioned, and the sequences therefrom.

11. Inasmuch as the character and amount of evidence required to prove pathological sequences and continuance in all disease cases is very similar, whether origin in the service is shown by the record or proven by other evidence, the proof required to show such sequences and continuance in all cases will be specifically considered under the heading "Proof in claims for diseases not of record."

THE ORIGIN IN THE SERVICE, OF DISEASES WHICH APPEARED WITHIN SIX MONTHS AFTER ENLISTMENT NOT ACCEPTED ON A RECORD.

1. A record showing existence of any of the following named diseases within six months after the enlistment of the soldier is not accepted to prove origin in the service, viz:

a. Rheumatism.
b. Scurvy.
c. Epilepsy.
d. Hemorrhoids.
e. Fistula-in-ano.
f. Varicose veins.
g. Disease of Lungs, Liver, Bladder, Eyes, and Ears.
h. Organic disease of Heart.

2. While it is not considered that it will require six months to contract any of said diseases, it is not reasonable to suppose that such diseases will, as a rule, be contracted and develop to such an extent as to cause a pensionable disability within a less period of time.

3. A record showing the existence of any of said diseases within the time mentioned is, of course, accepted as proving that the soldier had such disease in the service, but that it was due thereto must be established by parol evidence. In such cases origin in the service must be shown by competent evidence, which may be done either by proof of prior soundness or by direct proof of origin. In most cases prior soundness cannot be satisfactorily shown by other than medical testimony. This is especially true of obscure diseases. It is the usual practice in such cases to require proof of prior soundness and origin in the service, so either in one way or the other the claimant, if he has a just claim, can establish it.

4. Rheumatism is a very common disease; but, like many others, it often appears as an original disability, and again as a sequence. A large number of soldiers had it to some extent, but in very many cases it never developed to a pen-

sionable degree. While this is true of other diseases, it is especially so of rheumatism, and consequently claims therefor should be very carefully guarded.

5. The following pathological sequences are accepted as susceptible of proof:

a. Of *rheumatism;* disease of the heart, and changes in the structure of the joints of the body.

b. Of *scurvy;* loss of teeth, disease of the heart, and general debility.

6. It has been stated that in all disease cases continuance must be shown, and pathological sequences proven as are other facts. When it is not accepted on the record that a disease originated in the service, the character of proof to establish the same is similar to that required in disease cases not of record, and reference is had to the rules presented under the heading "Evidence in claims for diseases not of record;" the character of proof required in such cases, and that required to establish pathological sequences and continuance in all claims for diseases, is considered under that head.

7. Where there is a record of a disease in the service, the same amount of evidence is not required to show origin as in cases not of record. In such cases it is a question of prior soundness, and must be established by proof of similar character to that which is required in cases not of record, and must be proven by direct testimony, or evidence of origin from some specific cause.

DISEASES ESTABLISHED ON THE RECORD UNDER RULING NO. 55.

1. When it appears of record that a soldier has performed six months' continuous service immediately following enlistment, and such service was not interrupted by the incurrence of any disability, prior soundness is then presumed under ruling No. 55.

2. It therefore necessarily follows that origin in the service of any disease heretofore specifically considered is accepted as established, if the record show incurrence after

six months of such service as described—nothing either of record or in any other way appearing adverse to such claim. Continuance must be shown by such evidence as is required by the nature and character of the disease under the rules hereinafter presented.

3. The report of the Adjutant General may show that a soldier was present in the field for six months following enlistment, and it may not appear of record that the soldier had any hospital treatment, and that such service was not interrupted by any disability, yet the soldier may allege that he contracted the disease within the period named. Should such an allegation be made, origin in the service would not of course be accepted on the record. This may occur for the reason that in many cases soldiers were borne upon the rolls as being present for duty when in fact they were disabled in the service, and even in hospital at such time, as may be shown by the report of the Surgeon General.

4. Where such a conflict as that stated exists between the report of the Adjutant General and that of the Surgeon General, the report of the Surgeon General is accepted as governing the case; for it is more probable that a soldier would be incorrectly reported present for duty, than that he would be incorrectly reported as receiving hospital treatment.

5. It should not be accepted on the record that a disease originated in the service unless it appears that no further information concerning the origin of the alleged disability can be obtained by a call on the Surgeon or Adjutant Generals.

CLASSIFICATION OF DISEASES, AND EVIDENCE IN CLAIMS FOR DISEASES NOT OF RECORD.

1. The proof required in claims for diseases not of record will be considered without reference to ruling No. 55, said ruling applying to such claims in this only, that when it appears that a soldier has performed six months' continuous service immediately following enlistment, uninterrupted by the incurrence of any disability, prior soundness is pre-

sumed; but there being no record, there is nothing to show even *existence* of the alleged disease in the service, hence, when prior soundness is presumed, evidence of origin frequently, and of continuance always, is required. What is said herein will be without reference to said ruling, it being understood that where that applies prior soundness is presumed, andorig in may be established by showing condition at discharge.

2. To establish a claim for disease in the absence of a record, it must, as in all other claims for pension, appear from a report of the Adjutant General that the claimant was in the military service of the United States. It must also be shown by parol evidence that the soldier was sound prior to enlistment; that the alleged disease was due to the service and has continued to exist since discharge, or that a pathological sequence has resulted therefrom by reason of which the claimant is disabled, and the claim must be supported by the report of a medical examination.

3. In all classes of claims not established by record, where officers or comrades furnish testimony, a call should be made on the War Department to verify the presence or absence of such witness, covering the period named in their testimony.

4. In considering the character and amount of evidence required to establish claims for diseases not of record, for convenience, the diseases will be classified into "*obscure*" and "*not obscure.*"

Obscure diseases.

a. Typhoid, malarial, and other fevers.
b. Malarial poisoning.
c. Rheumatism.
d. Disease of liver, heart, and bladder.
e. Hemŏrrhoids.
f. Fistula-in-ano.
g. Sunstroke.
h. Epilepsy.
i. Pneumonia and other similar diseases are classified as obscure.

Diseases not obscure.

a. Diseases of the eye and ear.
b. Small-pox.
c. Measles.
d. Chronic diarrhœa.
e. Paralysis.
f. Scrofula.
g. Scurvy and other similar diseases are classified as *not* obscure.

5. The distinction made in the classification is, that obscure diseases are such as can, generally, be distinguished only by a physician; whereas diseases not obscure may be distinguished by persons not physicians. While only medical experts can give a diagnosis of diseases of the eye and ear, yet, if any person is suffering from any form of disease of the eye, or from defective hearing, any one associated with such person is a competent witness to the fact of the existence of some form of disease of the eye or ear. So it is with other diseases not obscure; at some stages of the disease the character of the same can be detected by medical experts only; but after such diseases have fully developed any one may be able to distinguish the disease; therefore a distinction is made between the character of evidence required to distinguish between diseases obscure and not obscure.

6. A witness may give such a description of a soldier when diseased as to clearly indicate the character of the disease, however obscure it may be, and such evidence, though not medical, must be accepted. Any one may witness a sunstroke and become a competent witness of the fact, but none save a physician can distinguish the primary cause, by examination of a person who has suffered therefrom. So any person may be able to describe some symptoms of epilepsy, but the ordinary witness not a physician cannot distinguish it from minor diseases of a similar character which are not pensionable; but any one who can describe the symptoms is a competent witness to show repeated

attacks thereof, and thus aid in proving a claim for the same.

7. The classification of diseases into *obscure* and *not obscure* is made upon the medical knowledge of the average witness, therefore, like many other statements, it is general in its terms. Witnesses differ in their ability to distinguish diseases. The general rule in regard to the competency of evidence in such cases may be varied, as has been stated, if a witness shows himself competent. Otherwise the rule should be observed.

PROOF OF ORIGIN IN CLAIMS FOR OBSCURE DISEASES NOT OF RECORD.

1. To prove prior soundness in claims for obscure diseases, one witness, if he is the family physician of the claimant, and testifies to his personal knowledge of the claimant's condition, is sufficient, but the credibility of such physician must be shown. If the claimant makes it appear upon oath that such medical evidence cannot be obtained, then in lieu thereof the evidence of two neighbors, their credibility being shown, who have personal knowledge of the claimant's condition, provided there is medical evidence that the alleged disease originated in the service, or existed at discharge, will be accepted to show prior soundness. Almost every claimant can furnish some testimony showing prior soundness. Where the point is sought to be established by neighbors, special care should be taken to require them to state specifically their means of knowledge. Affidavits by a physician or neighbors are wholly worthless if expressed in general terms.

2. To show origin in the service medical evidence must generally be produced; but there is no established rule on the subject, the circumstances surrounding these cases rendering it impracticable to adopt one. Medical evidence of prior soundness, origin, or condition at discharge is essential to the allowance of a claim for disease. (See paragraph 1, under "Evidence Medical," page 168 of Digest.) The testimony of the surgeon who treated the

claimant for the alleged disease is sufficient to show origin; but if that cannot be had, and there is medical evidence of prior soundness and condition at discharge, or if the latter is proven by lay evidence showing medical treatment, then that of an officer or two comrades will be accepted to show origin; provided they give such a specific description of the symptoms of the disease as to show themselves competent witnesses. If the witnesses are officers or comrades their credibility should be ascertained, and correspondence should be had directly with them concerning their personal knowledge of the facts to which they testify; provided the affidavits are not in their own handwriting. In such cases, as in all others, it is not sufficient to show that medical evidence cannot be had and to produce that of comrades, for before such evidence can be received it must be shown that the testimony of officers cannot be had.

PROOF OF CONTINUANCE IN CLAIMS FOR OBSCURE DISEASES NOT OF RECORD.

1. After origin in the service has been established, the question of continuance is one of great importance. Special care should be taken to ascertain the true condition of the claimant, as the evidence on that point, taken in connection with the report of a medical examination, governs the question of rate. It having been a number of years since pensionable disabilities were contracted in the war of the Rebellion they must, of necessity, in a majority of cases have varied in degree during so long a period. Hence, not only the fact of continuance must be shown, but also the degree of disability from time to time during the whole period since discharge, for it is not reasonable to presume that the claimant has been disabled to a pensionable degree during the entire time since discharge, and had no medical treatment during such period. In many cases the claimant is unable to produce the testimony of the physician who treated him by reason of his death, or inability to obtain his post-office address, or from some other cause. But continuance can be shown in all just and lawful claims either by medi-

cal evidence or by lay testimony that medical treatment was had for the alleged disease. The amount of evidence necessary to show continuance must depend largely upon the facts and surroundings of each particular case.

2. Where origin in the service is established by medical evidence and the alleged disease is shown by the report of the medical examination, less evidence is required to show continuance than in cases where medical evidence at discharge is partly relied upon to establish such origin, but it should be none the less specific.

3. Affidavits executed either by neighbors or physicians merely showing generally the continuance of the disease, without giving the claimant's condition from time to time specifically, so that the degree of the disability can be ascertained therefrom, are wholly worthless for the purpose of rating.

4. As origin in the service on the testimony of one witness should not be accepted unsupported by evidence of prior soundness and condition at discharge; so, also, continuance should never be accepted on the evidence of one witness—the number of years covered since discharge being too great and the question of rate one of too much importance both to the claimant and the Government.

5. It may be properly stated that, in general, the testimony of one physician is sufficient to show continuance during the period covered by such evidence; but if only one physician has treated the claimant during the entire period of time, in addition to his testimony, that of two neighbors, testifying to treatment for the alleged disease as a fact, will be required to show continuance.

6. In cases where there is medical evidence of origin in the service and it is made to appear that medical evidence to prove continuance cannot be had, the evidence of two neighbors, showing that the claimant was treated for the alleged disease as a fact, and giving a specific history of the claimant's condition from time to time since discharge, describing his symptoms as well as it is possible for witnesses,

not physicians, to do, will be accepted as sufficient to establish the point, provided the alleged disability is shown by the report of a medical examination.

7. If the affidavits of such neighbors are not in their own handwriting, correspondence should be had directly with them concerning their personal knowledge of the facts to which they testify.

8. As has been heretofore stated under another heading, pathological sequences from diseases must be proven as are other facts, and not presumed; so, in claims where it appears that the claimant has, technically speaking, recovered from the original disease but is disabled by reason of its result, the same must be established by competent and satisfactory evidence.

9. It is more important that medical evidence should be produced to establish a pathological sequence than almost any other fact necessary to be proven in the adjudication of claims for pensions.

10. To establish a sequential disease it must be shown when it first appeared; that it did not exist before the original disease was contracted; and that it did appear as such sequence within a proper time; the condition of the claimant with reference to the original disease at the time such sequential disease first appeared must also be shown; whether any apparent cause therefor intervened other than the original disease; and whether the claimant is disabled to a pensionable degree by reason of such a result.

11. The testimony of one physician, who should be required to give the facts, not his opinions, is sufficient to establish a pathological sequence; but the continuance of the disability must be shown by such evidence as the nature and character of the disease requires, under the rules heretofore presented.

12. Pathological sequences may be shown, in the absence of the best evidence, by such secondary testimony as is required to establish obscure diseases, whether the sequence claimed is from such a disease or one that is not obscure.

PROOF IN CLAIMS FOR DISEASES NOT OBSCURE AND NOT OF RECORD.

1. There is no difference in the amount of proof required to establish claims for diseases "obscure" and "not obscure;" but there is in the character of the evidence as to the competency of the witnesses.

2. In claims for diseases not obscure, the best evidence must always be called for, but if it cannot be obtained, secondary evidence will be considered and accepted, if satisfactory.

3. To prove prior soundness, the same evidence is required in claims for obscure diseases as in those not obscure.

4. In such claims the witness, though not a physician, may state in general terms the facts in the case, so far as origin in the service is concerned,—that is, that the claimant was afflicted with the alleged disease, giving its proper name if possible; if not, the symptoms he noticed, and the facts connected with its incurrence.

5. The evidence necessary to establish origin in the service is the testimony of the regimental surgeon; but if such evidence cannot be obtained, that of a commissioned officer, or in lieu thereof that of two comrades, will be considered sufficient to show origin in the service. Correspondence must be had with the witnesses, if comrades, concerning their personal knowledge of the facts to which they testify, and their credibility should be ascertained from some reliable source.

6. As a rule, the same evidence of continuance is required in claims for diseases *not* obscure as in those which are obscure, excepting that a distinction is made as to the competency of the witnesses, as has been heretofore stated; but in both classes of cases evidence of continuance must be equally specific as to the degree of disability.

7. Excepting the qualifications stated, what has been said upon the subject of continuance in claims for obscure diseases will apply herein, modified by the following observa-

tions: In a case where there is no satisfactory medical evidence of prior soundness or origin in the service, nor any legal presumption of the same, to prove continuance, there must, in general, be medical evidence covering a number of years, beginning at discharge or within a reasonable time thereafter. On a proper showing, however, in lieu of such evidence, the testimony of two neighbors whose credibility is ascertained, and who state as a fact that the claimant was treated for the alleged disease within a reasonable time after discharge, will be considered, and accepted if satisfactory, provided there is medical evidence of treatment thereafter, beginning at a reasonable time after that shown by neighbors.

8. No claim for a disease not obscure should be allowed without *some* medical evidence being produced in the case; that is, either of prior soundness, origin, or condition at discharge; but even if prior soundness is so proved, the evidence of continuance should show medical treatment as a fact. There is no established rule in regard to requiring medical evidence. (See paragraph 1, under title of "Evidence Medical," page 168 of Digest.)

9. There is no distinction made as to the evidence required to show pathological sequences in claims for diseases obscure and *not* obscure.

INVALID CLAIMS OF PRISONERS OF WAR FOR DISEASES.

1. The same character of evidence is required to establish claims for diseases where the claimants have been prisoners of war as in other similar cases; but less evidence is necessary where the first paragraph of Order No. 74, which is as follows, applies:

1st. When it appears that the soldier was sound at the date of his capture in line of duty, and that he was disabled as alleged at the date of his release from rebel prison, his disability may be presumed to have originated in the service and in the line of duty, *provided* said disease was incident to the service or to such imprisonment. (See supplement to Digest, under title of Orders.)

2. What has heretofore been said concerning the proof

required in claims for all classes of diseases must be modified in cases governed by said order, and the proof should conform to its provisions.

3. The effect of this order is to waive direct proof of origin in the service and accept the disease as due thereto, on proof of soundness at the date of capture in line of duty, of condition at the time of release from prison, and of continuance since discharge; *provided* the alleged disease is of the character which is accepted as being incident to the service or to prison life.

4. Chronic diarrhœa, disease of the heart, sunstroke, consumption, scurvy, and paralysis are among the diseases held to be incident to the service or prison life.

5. Prior soundness, condition at the time of release from prison and continuance since discharge, should be shown by the same character and amount of evidence as is required in other disease cases of the same class.

6. Order No. 74 applies to claims for diseases only, though the same principle is applied in claims for injuries and wounds received by soldiers while prisoners of war, unless the character of the disabilities is such as to raise a doubt as to their origin being due to the service.

INJURIES WHICH ARE NOT ESTABLISHED WHEN THE RECORD SHOWS EXISTENCE WITHIN SIX MONTHS AFTER ENLISTMENT.

1. In common usage the words "wound" and "injury" are often used synonymously, but in the administration of the pension laws a wound is a disability received by a soldier from any weapon of war, whether accidental or otherwise; an injury is a disability received by means of over-exertion, by any hurt or violence which is not the result of a wound or disease.

2. Hernia, varicocele, and varicose veins, when not the result of disease, are classed among injuries, as such disabilities may result either from injury or disease. There are a great many other injuries arising from over-exertion, or by the soldier being accidentally hurt. Injuries are not

accepted as established upon the record if it shows existence within six months after enlistment, for the reason that they may have existed before enlistment, or may or may not have been received in line of duty.

3. There is no class of claims for pension which should be more carefully guarded than those for injuries. In such claims proof of line of duty should be required, and, in some cases, of prior soundness.

4. Prior soundness and line of duty may be proven in claims for injuries by either medical or lay evidence, but before the latter can be received it must first be made to appear that medical testimony cannot be obtained; for the reason that injuries are a class of disabilities that may be seen and distinguished by any one whether he is a physician or not; but, if possible, medical evidence should be produced in all such cases, because it is more satisfactory, being based on *necessary personal* inspection, and physicians are thus better qualified to state the degree of the disability. (See paragraph 23, page 171 of Digest.)

PROOF IN CLAIMS FOR HERNIA AND VARICOCELE WHEN NOT ESTABLISHED ON THE RECORD.

1. In claims for hernia and varicocele proof of prior soundness should be required, though as a rule it is not of much weight unless the witnesses have such peculiar relation to the claimant as would enable them to be thoroughly informed as to his physical condition.

2. The usual affidavit of prior soundness, in general terms, is worthless in claims for such injuries. Personal knowledge of the facts testified to is necessary to make a witness competent in almost every case, but particularly so in the class of claims mentioned, as they are for obscure disabilities.

3. To show origin of hernia or varicocele it is not enough for a witness to testify that he heard the claimant complain of having received a certain injury. While such testimony should be considered and given its proper weight, better and more specific corroborative testimony must be produced

to establish a claim therefor. The disabilities under consideration are often caused by long laborious marches and overexertion, and as they may appear gradually, claimants cannot always state the specific time when such injuries occurred.

4. To establish such claims, when they thus appear, specific proof of prior soundness and the testimony of the regimental surgeon and another commissioned officer should be required; or, in lieu thereof, that of two comrades who saw the alleged injury about the time it first appeared.

5. When a specific injury has caused such disabilities it is a fact more easily proven, and in either case, where an injury was received, the soldier as a rule has received some medical treatment and can show that fact either directly or indirectly.

6. The amount of proof required in this class of cases is, in general, *two* witnesses as to prior soundness, and *two* as to origin. Generally, proof of continuance is not required: but if it is needed to fix the rate in a specific case, the testimony of two witnesses will, as a rule, establish the point.

7. In each case and upon each point, as in all other cases, the best evidence should be required, or secondary when the proper foundation is laid for receiving the same.

8. Where neighbors and comrades testify, correspondence should be had directly with them concerning their means of knowledge, and their credibility should always be ascertained.

PROOF IN CLAIMS FOR INJURIES NOT ESTABLISHED ON THE RECORD OTHER THAN HERNIA AND VARICOCELE.

1. The difference between proof required in claims for hernia and varicocele and that required in claims for other injuries is not very great. Proof of prior soundness, as has been stated, is required in all claims for hernia and varicocele where a record shows existence within six months after enlistment. Whether in claims for other injuries such proof is required depends upon the character of the disability. In claims for varicose veins it is necessary, but it is not required in claims for fractures.

2. Hernia and varicocele are obscure disabilities; consequently the proof should be if possible more specific, as it is more important that medical evidence be produced in claims therefor than in those for other injuries; as a rule, the same character of proof should be produced to show line of duty as in other cases, though often not so much is required; but in stating the general rule as to the amount necessary, no change should be made in that given at the close of the preceding title.

INJURIES OF RECORD GOVERNED BY RULING NO. 55.

1. The principle of ruling No. 55 applies to injuries, but some are of such a character as to make it possible for the soldier to remain in the service, perform duty for six months, and still not have been sound at enlistment; that is, the report of the Adjutant General may show the soldier so injured present for duty during that period; therefore, when the record does not show the existence of the injury until after six months subsequent to enlistment, such claims should not be allowed until a report which may show hospital treatment during the six months immediately following enlistment has been first obtained from the Surgeon General. Of course where it appears from any reliable source that such injury existed within six months after enlistment the claim should not be allowed upon record.

2. Where a reasonable doubt arises in any such claims, proof of prior soundness and origin in the service should be required; but in all claims for injuries, line of duty must be shown. The character and amount of evidence required has been considered under the preceding title.

3. In cases where, from the nature of the injury, the disability is unchangeable, no evidence of continuance is necessary; if otherwise, such evidence must be produced. In cases where the disability *may* be progressive, condition at discharge and since must be shown, to aid in connection with the medical examination in fixing the rate.

WOUNDS AND INJURIES NOT OF RECORD.

1. A large number of cases not supported by the record are presented for allowance. They are not to be considered with suspicion, but should be very carefully guarded, chiefly for the reason that, while this class of injuries may have been received, they are not likely to be of a very serious character.

2. If such wounds or injuries had very badly disabled the soldier, he would probably have received some medical treatment and a record of the same would have been made. But owing to the fact that in many cases hospital records were very defective, and that it is not always possible to obtain even them, therefore it is not just to raise the presumption against the soldier in a case without record.

3. In these cases, if the medical examination shows a very serious wound or injury, to obtain favorable action the best, or at least satisfactory, evidence should be produced; otherwise, unless a good reason appears why no record can be had, the claim should either be rejected or specially examined. Claimants in such cases should be required to show good and sufficient reasons why the best evidence cannot be obtained, and it should appear that due diligence has been observed in endeavoring to procure the same. The proof should show prior soundness, line of duty, and condition at discharge, and be supported by a report of a medical examination showing a wound or injury of the character claimed.

4. As to the character of evidence required in claims for wounds and injuries, medical evidence, though the best, is not always indispensable. (See paragraph 17 under title of "Evidence, sufficiency of," page 170 of Digest.)

5. The amount of proof required depends largely upon the character of the wound or injury, and the nature of the claimant's statement in regard to the incurrence of the disability. In general, the testimony of the family physician, if his credibility is vouched for, and it is shown that he has personal knowledge of the claimant's condition, is sufficient to show prior soundness; or, on a proper showing of ina-

bility to produce such evidence, the testimony of two neighbors, their credibility being certified, who had means of personally knowing claimant's condition, will be accepted to show prior soundness.

6. Prior soundness being established, to show that such wound or injury was due to the service, the testimony of the regimental surgeon or that of one other commissioned officer will establish the claim; or two comrades, their credibility being vouched for, will be accepted in lieu of the best evidence, provided such officer or comrades, in reply to private inquiry made direct from this office, state that they had personal knowledge of the incurrence of such wound or injury.

7. Origin in service having been clearly established, if the alleged disability is of such a character that it would remain in the same condition, no proof of continuance is necessary, provided it be found on a medical examination and the report thereof is consistent with the proof.

8. In a case where the best evidence of origin in the service is not produced, condition at discharge, which can be established by soldiers who were wounded or injured in the service, should be shown. Such evidence is of importance to claimants to assist the office in fixing a rate, and is also a protection to the Government.

9. In claims for wounds or injuries where Ruling No. 55 applies, as in all other cases, prior soundness must be presumed, and, there being no record, line of duty, as well as condition at discharge and continuance, must be shown.

BRIEFING CLAIMS FOR INVALID PENSIONS.

1. It is necessary that all cases be fully and carefully briefed in accordance with existing orders. Reviewers are required to read the evidence in cases submitted for decision, and not to rely upon the brief alone; special care should be observed in preparing the face of the same.

a. It should show the character of the claim, name, post-office address, and service of claimant.

b. Date of enlistment, muster, and discharge.

c. Facts as to prior and subsequent service.

d. Date of filing declaration, and if more than one has been filed that fact should appear, with date of filing the same.

e. There should also be given a short and concise statement of the basis of the claim.

f. The disability for which pension should be granted in the opinion of the examiner.

g. The date of commencement of pension should be stated.

2. The following formula will show the proper entry to be made in regard to attorneys and their fees, in accordance with the facts in the case. If the attorney is recognized, his name and post-office address should be inserted; if the fee is to be paid on contract, insert the words "Fee, ——— dollars; contract" (naming amount); if the fee is to be paid by the agent without contract, insert "Fee, $10; agent to pay;" if the fee is not to be paid by the agent, insert "Fee, $10; agent not to pay;" if the attorney is not to be recognized, insert "not recognized." It should also be shown whether the case is submitted for admission or rejection; the date of submission should appear, and the brief be signed by the examiner.

3. It is so important that cases be properly briefed for the convenience and assistance of reviewers, and for officers and others who may have occasion to examine them, that the requirements of Order No. 62 and other orders are herein paragraphed, that it may be more convenient for the examiner to strictly comply therewith, and that there may be more uniformity in the briefing of cases. A brief should embody the following facts:

a. The essential points, character and weight of all evidence.

b. The mention by name and post-office address of all witnesses, whatever may be the character of their evidence or statements.

c. The date of filing the evidence, whether record or parol, and the reports of the Adjutant General as to the presence or absence of affiants.

d. All such dates to be noted in red ink immediately following the name of the person testifying or certifying.

e. Reference to all papers to be examined by the reviewers.

f. All irrelevant papers inclosed in a separate jacket.

g. The record to be attached to the brief immediately following its face.

h. When a report of a special examination accompanies a case, reference thereto, with the date of filing, should appear on the brief.

i. In all cases submitted for decision on a report of a special examination a new half-face should be attached to the brief.

j. The examiner's summary sheet, referring to the evidence on which his opinion of the rate to be given is based, with reports of medical examinations, should be attached to the brief—the latter to be the cover thereto, and the former to immediately precede such report.

k. In all cases it must be stated whether the case is submitted for admission or rejection, and the examiner may give his reasons therefor on a separate slip.

4. It requires the exercise of sound judgment to properly brief a case so that the facts presented for consideration, and the character thereof, and the weight to be given thereto, can be ascertained therefrom by any one who has not read the evidence. This can be more easily done by an examiner who is careful to bear in mind that he is in charge at the same time of both the interest of the claimant and the Government, and does not look upon every case with suspicion, regarding himself as the agent of the Government to protect it alone, or, on the other hand, consider himself the special agent of the claimant, striving if possible to make out a claim. A brief is not a mere synopsis of the evidence; only the essential points are to be mentioned. In stating the essential points of the evidence the language of the affiants should be employed as far as possible, and all conclusions of the examiner should be omitted.

5. Great care should be observed in giving the character and weight of evidence. The character of the evidence includes the relation which the witnesses sustain to the claimant in all respects; whether commissioned officers com-

rades, neighbors, &c.; whether the evidence is in the form of an affidavit, statement, or letter; and whether in the handwriting of witnesses, and any other facts that may classify or define its nature and character. To give the weight of evidence includes the stating of every fact that is made to appear which will strengthen or militate against it. The character of the evidence partially governs its weight; therefore, to some extent, when its character is stated its weight is largely presented; but there are other facts which do not constitute its character, and which determine its weight. For instance, if the witnesses were commissioned officers or comrades, whether they were present or not at the time stated by their affidavits, or whether, if present, they had personal knowledge of the facts testified to by them, and all others facts going to show the credibility of the witnesses.

6. As has been said, *conclusions* should be omitted in briefing cases. For instance, it is not proper in briefing an affidavit as to prior soundness to state that (giving name of witness) "testifies to prior soundness." The affiant may have stated in his affidavit that the claimant was sound prior to enlistment, but it may not appear that he had means of knowing whether claimant was sound or not, or that he possessed such knowledge.

7. If such affidavit is in form, it should be briefed thus: (giving name and post-office address) "——— testifies to prior soundness, and knew claimant personally before enlistment for ——— years, and claims personal knowledge of the facts stated."

8. If such affidavit is not in form, objection thereto should be stated, that its weight may thus be made to appear. Affidavits on all points should be so fully briefed that it may appear from the brief whether the affidavit is in form in all respects, and whether the evidence may be accepted for what it appears to be worth on its face.

9. That it may not be too voluminous, the brief should not contain a single statement that is not clearly necessary to cover the points mentioned, and care should be taken to state every fact in short and concise language.

LEGAL REVIEW OF INVALID CLAIMS.

1. Order No. 59, as has been stated heretofore, at page 282 of the Digest defines the duties of legal as well as medical reviewers. The legal review involves a critical examination of all the evidence produced in a case, both legal and medical, together with final action upon the points involved. It is the duty of the legal reviewers to see that every point in the case is covered by competent and sufficient evidence, as they act for the Commissioner who is responsible for the allowance of claims.

2. The evidence presented in the case should be accepted for what it purports to be upon its face by the legal reviewer, who should give it the weight to which it is entitled under the rules of the office; provided it is not patent that, for any reason, the evidence is not entitled to credit. For instance, if any affidavit appears to be forged, or if, from his experience in the office or from any other source, it be within the personal knowledge of a reviewer that a certain witness is not in good standing, or if for any other reason the evidence is not sufficient to support a given claim, it should be returned to the proper adjudicating division with a specific requirement. The legal reviewer is the sole judge of the weight and sufficiency of evidence to establish a claim.

3. The action of the legal precedes that of the medical reviewer, and the action of the latter is based upon that of the former. The medical reviewer has no jurisdiction in a case until the same has been acted upon by the legal reviewer, unless it be referred to the medical reviewer through the Medical Referee for an opinion upon a specific point stated. The duties of the legal and medical reviewer are often very closely connected, but the dividing line may be clearly defined and should be closely observed, that the proper reviewer may be held responsible for the final action in every case, and that the responsibility may not rest somewhere between the respective reviewers and therefore upon neither.

4. Every case should be approved for a specific disability, and that disability should be the wound, injury, or disease which the soldier had in the service, and the result if any therefrom. As the basis of every claim is a disability that was contracted in the service, no claim should be legally approved for a result of such disability only, but for the original disability and the results, if any. If such results existed in the service the legal reviewer should approve for the same by name; if not, then the approval should be for original disability "and results;" leaving a specific description of the latter to the medical reviewer. The approval of a claim by the legal reviewer includes continuance as well as the origin of the disability.

5. Before any claim is legally established, continuance must be shown as a fact. The degree of the disability is a question for the medical reviewer; therefore in no case should "results" be added to an approval unless continuance of the original disability or of a pathological sequence is shown. Technically speaking, the medical reviewer is the judge of pathological sequences, but as the legal reviewer's approval includes continuance as a fact, in a case where more than one result is claimed from the disability approved, and if the legal reviewer does not approve for continuance as a fact for all the sequences as alleged, it should be indicated which result is approved in his indorsement on the brief—that is, approval may be made on the condition that the medical reviewer finds it to be a pathological sequence; or an abstract medical question in regard to the sequence may be submitted to the Medical Referee in advance of the legal approval.

6. There is a class of claims where the questions involved, which may be termed mixed questions, are both legal and medical. In these, abstract medical questions should be referred to the Medical Referee so as to enable the legal reviewer, in the light of the medical opinion thus obtained, to decide the mixed questions involved. To this class of claims also belong those wherein it is claimed that the soldier is in-

capacitated to perform manual labor, or is totally helpless, and therefore entitled to a given rate of pension. In such a case it is not always proper for the legal reviewer to approve it, leaving the whole question of the rate to the medical reviewer, for the reason that the extent of the disability is often simply a question of fact and no purely medical question is involved; therefore the legal approval should be for the alleged disability at a given rate.

7. Again, to determine such cases as mentioned, an opinion of the Medical Referee may be a necessary condition precedent, which should therefore always be had. The soldier may be afflicted with such a disability that the medical reviewer only will be able to determine whether the claimant is unable to perform manual labor, or whether total helplessness will necessarily follow, and the opinion of the Medical Referee should be had in advance of the legal approval.

8. This technical distinction should be applied to every case where it is applicable; for though technical it is absolutely necessary that it should be observed to fix the proper responsibility for the final action in every case.

9. When a case is legally approved, that continuance is shown as a fact is to be accepted by the medical reviewer, and in some cases that claimant is disabled as alleged; therefore, when the rate in any given case is one of fact only, the approval as a necessary result carries the rate, and unless the claimant is entitled to such rate the claim should not be approved. Hence there is no other practicable way to properly adjudicate claims than that heretofore set forth.

MEDICAL REVIEW OF CLAIMS FOR INVALID PENSIONS AND MEDICAL EXAMINATIONS.

1. In discussing the subject of legal review of claims much has been incidentally said concerning the duties of the medical reviewer, for the duties of the respective reviewers are often very closely connected. Reference therefore should be had to comments under title of "Legal review of claims for invalid pensions."

2. It is the sole duty of a medical reviewer, under direction of the Medical Referee, to fix the measure of damages to which the claimant is entitled by reason of the disability covered by the legal approval; that is, to fix the basis of the rate of pension, which includes all questions concerning pathological sequences arising in the course of the legal approval. The office of the medical reviewer is really that of a medical expert, whose province it is to determine technical medical questions; therefore such reviewer has no jurisdiction of any question of fact arising in any case except such as are strictly connected with the duties herein defined.

3. The medical evidence in a case should be read in full by the reviewer, and no case should be adjudicated upon an examination of the brief alone. Each question in every case is important to the end that it be properly decided; but the question of fixing the basis of rate is the all-important one, for the length of time since the pensionable disabilities were contracted renders it exceedingly difficult to make a just and equitable rate covering the entire period. The evidence to be considered by the medical reviewer is that of continuance, and reports of medical examinations and the record in the case.

4. Before a case should be rated satisfactory evidence of continuance should be produced, in accordance with the circular of the Hon. Commissioner under date of July 25, 1882, so that it may be graded from time to time in accordance with the law and the facts. In most disease cases, and in many others, it is not reasonable to presume that claimants have been entitled to the same rate as at the present time during the number of years since the disability was contracted; of course to what extent the rate should vary must be largely governed by the character of the disability.

5. Order No. 80 is one to which special attention is invited. While reports of medical examinations are not infallible—for experience has shown that such reports often do claimants great injustice—they are far more reliable than the usual evidence of continuance.

6. The legal reviewer only requires such evidence as establishes continuance as a fact, but it may not be sufficiently specific to enable the medical reviewer to fix the degree of disability, if any existed. The usual evidence which shows continuance as a fact, and even shows a pensionable disability, is not sufficient to overcome an adverse report of a medical examination under Order 80, which states that the medical reviewer is not authorized, under any circumstances, to continue a pension over such adverse report.

7. Before a claim is rejected, or the rate continued beyond the date of the report of a medical examination showing no disability, the claimant should be twice examined, and by different boards, to justify the continuance of the pension over such adverse reports. As a rule medical evidence of continuance, very specific in its character, should be produced; and whether the evidence under such circumstances is sufficient to show continuance of the disability is the province of the Hon. Commissioner or a Deputy to decide.

8. A report of a medical examination may describe a pensionable disability and yet state that the claimant is not disabled, and fix no rate. In such cases, if the evidence of continuance is specific and the description in said report raises a purely medical question, the Medical Referee, upon a personal examination of the case, may rate the claim to continue in the future.

9. Cases where the claimant has been twice examined by different boards and both reports show no disability, and where the pension, if dropped, should cease at the date of the first, they should be personally reviewed by the Medical Referee; and, as a rule, before fixing the basis of the rate should be referred for special examination.

10. It has been the practice under Order No. 75, in cases mentioned therein, to require the examining surgeon to report upon the disability claimed, and any other physical signs of wounds, as instructed. This report is now required in all cases by law, under statute enacted by the 47th Congress on the 25th day of July, 1882.

11. Reports of medical examinations in all cases should be required to conform to the law and the requirements of the office based thereon. So much depends upon these examinations that too much importance cannot be attached to them, and the reports should be required to be full, complete, and specific.

12. It would seem unnecessary to state that reports of medical examinations made up of claimants' statements are wholly worthless, were it not for the fact that so large a number are filed in the office which contain but little else, and are without any finding of the surgeon or the board making the report other than that "if the claimant's statements are true he is entitled to a pension," or something of a similar character.

13. When reports of that kind are filed, they should be immediately returned for correction as unsatisfactory, and the surgeon or the board making the same should be paid no fee until a proper one is filed in the office. A report to be in form should contain the statements of the claimant in full, and then the finding of the surgeon or the board, and no case should be rated in the absence of such a finding.

INCREASE OF INVALID PENSIONS.

Under order of the Hon. Commissioner, No. 86, claims for increase will not be adjudicated until six months shall have elapsed after the allowance of the original claim; though, when declarations are filed therefor, the claimants should as soon as practicable be ordered for examination, for the reason that the increase must commence at the date of the medical examination made pending such claim, except in cases of permanent and specific disabilities. (See Section 4698½, Revised Statutes. Digest, page 36.)

DECLARATIONS FOR INCREASE OF INVALID PENSIONS.

1. A declaration for increase of invalid pension may be executed before any officer authorized to administer oaths for general purposes. It must show his official signature,

and the same must be certified by the seal of a court of record; and the execution of the declaration should be witnessed by two competent persons.

2. In addition to this the following points must be covered by allegation:

a. Age, residence, post-office address.

b. That he is a pensioner of the United States; the agency where enrolled, and the rate.

c. Disability for which pensioned, and service where the same was incurred.

d. Present physical condition.

3. No call for evidence is made in these claims unless some good reason therefor is made to appear. They are submitted for review on a report of the medical examination made pending the claim for increase, and the declaration.

BRIEFING CLAIMS FOR INCREASE OF INVALID PENSIONS.

1. A brief in a claim for increase consists in a new face attached to the brief of the original invalid claim. Such face should be marked "Increase," and contain the facts that were given on the face of the invalid brief when first submitted for review, together with a full history of all prior proceedings in the case.

2. The face of a brief should never be removed in cases of any character, and especially is this true in increase claims; no matter how often increase has been had, the old face of the brief should remain. A full history of the case, as occasion may require, can be thus easily obtained and presented on the new face, and the correctness of the same can be readily ascertained.

3. In all cases in which arrears of pension have been allowed the arrears brief should be attached and made a part of the increase brief.

LEGAL REVIEW OF CLAIMS FOR INCREASE OF INVALID PENSIONS.

1. In reviewing claims for increase of invalid pensions where no evidence has been filed, if the proceedings in the

invalid claim are correct, including any increase that may have been had in the case, the only point for the consideration of the legal reviewer is, whether the brief contains a full and correct history of the former proceedings in the case and is in all respects correctly briefed. It appearing that all former proceedings were correct and the increase claim properly briefed, the reviewer should repeat the approval in the invalid claim.

2. It is not considered the duty of the reviewer, when examining a claim for increase, to re-review the invalid claim and former proceedings in the case, inasmuch as such claims and proceedings were considered at the time former actions were taken. In such cases it is only necessary for him to examine the brief, from which he can obtain sufficient knowledge of the former proceedings. Under the practice of the office, where title to a pension has been granted, such action cannot be reconsidered upon the same facts presented when the claim was originally allowed. (See paragraphs No. 23 and 48, under title of "Reconsideration," of the supplement to the Digest.)

3. If it be patent, from the face of the brief, that the former action in the case was not in accordance with the practice of the office at the time the claim was adjudicated, the reviewer should carefully review the evidence in the case; and if a good and sufficient reason appear therefor, should refer the claim for a special examination. If the evidence thus produced shows the former action incorrect, then it may be reconsidered and corrected; or, if it appear that the claimant is not entitled to a pension, his name should be dropped from the roll.

4. On a review of an increase claim it is improper to take exception to former proceedings simply because, in the judgment of the reviewer, the weight of evidence was not sufficient to justify former action. A judgment formed upon the weight of evidence, and acted upon by one duly authorized, is binding upon the office, unless new and material evidence is presented showing such action to be incorrect,

or it is made to appear that fraud was practiced, or it is patent that an error was committed; that is, when upon a re-review it is so manifest that the former action was improper that the correctness thereof is not a question of controversy, or in regard to which there would have been no difference of judgment, special attention having been invited to the particular facts considered.

5. Sufficient has been said to indicate the points of difference between a legal review of original invalid claims and those for increase.

MEDICAL REVIEW OF CLAIMS FOR INCREASE OF PENSIONS.

1. The sole question to be determined in the medical review of a claim for increase of invalid pension is, whether the disability for which the pension was granted has increased to such a degree as to entitle the claimant to a higher rate than he is now receiving; provided the medical action in the allowance of the original claim, and also in all proceedings for increase that may have been had, was correct.

2. What has been said in considering legal review of claims for increase in regard to the reconsideration of the prior proceedings applies to the medical review and need not be repeated, reference being had thereto. Special attention is, however, invited to the definition of a patent or manifest error. Single and narrow as the question for the medical reviewer appears when stated, it is of very great importance, being, at least for the time being, a final action by which, as a rule, the office is bound; therefore such action should be carefully and judiciously considered in all cases.

3. The majority of pensioners apply for an increase of rate, but it is not reasonable to presume that the office makes erroneous adjudications in such a number of claims. On reconsideration, in the light of another medical examination, a large majority of these applications are rejected, and doubtless should be.

4. No distinction is made concerning the judgment of different boards of surgeons, it being presumed that they are all entitled to the same credit. Therefore, unless the last medical examination of the claimant describes a greater disability than first shown by preceding reports, no increase in rate should in any case be granted. If an increase is allowed, it should appear from such last report that the description given was one obtained by physical examination and not from claimant's statements; and the rate should be increased either by reason of an increase of disability, or on account of the report giving a fuller and more complete description thereof, it being thus made to appear why a more just and equitable rate should be given.

5. That no increase of rate should be allowed by reason of any difference of judgment on the part of the board of surgeons is very apparent when it is remembered the results that follow. To illustrate: A given rate is fixed in an original claim, the claimant applies for an increase, and another medical examination is had. The board of surgeons report in favor of the increase, which is granted on the judgment of such board. This point being gained, the claimant applies for a re-rating for the period since discharge, or for a number of years, claiming that the disability has been the same; the office having conceded the pensioner to be entitled to a given rate at a certain time, and there having been no change in the degree of disability during the period claimed, in a certain class of cases a re-rating must be allowed. Thus he may, step by step, obtain a greater rate than that to which he is entitled under the rules of the office. Hence, no claim for increase should be allowed unless it is clearly made to appear that the disability has increased, or that the rate previously given is not adequate.

6. Where there is reasonable doubt concerning an increase, evidence should be required showing the pensioner's condition since the adjudication of the claim. It is proper to require such evidence in very many cases to remove doubt, and thus more clearly define the rate which should be given.

Under the practice of the office, when the rate is fixed on the report of a board it cannot be increased on the certificate of a single surgeon.

7. While the report of a board outweighs that of a single surgeon, in a case where the report of the board is subsequent to that of a single surgeon and the rate is higher, the action to be taken should depend upon the description of the disability and not upon the judgment of the board.

THE RATING OF APPROVED CLAIMS—ORIGINAL, INVALID, AND INCREASE.

1. When original invalid claims and those for increase of pensions have been legally and medically approved, the rate must be given, on the basis fixed by the medical reviewers, in figures on the face of the brief.

2. The raters do not sign the brief, and place no action thereon other than stated. Therefore, technically speaking, a rater is responsible for no other action; but, it being the last action taken before the certificate is issued, it is the established practice of the Office for the raters to cause any manifest errors that have been committed, either legal or medical, in the approval of claims, to be corrected through the Chief of the Board of Review.

3. Special care should be observed to rate no claim where it is patent that the basis thereof fixed by the medical reviewer is not sustained by the evidence of continuance as shown by the brief, together with the report of a medical examination, or where an error has been committed in regard to dates. Great accuracy is required in rating claims. If it is apparent that the basis of the rate fixed by the medical reviewer is, for any reason, not correct, the claim should be referred, through the Chief of the Board of Review, to the Medical Referee for his personal action, or to the Chief of said Board for his personal consideration, with a view to a reference of the case to the Hon. Commissioner for his decision.

4. When a claim is rated, it is charged and transmitted to the division of Certificates and Accounts for the issuance of a certificate of the claimant's right to pension.

5. Rejected cases are stamped "Rejected," under direction of the raters. All claims that have been acted upon by the Board of Review, such as for reduction of rate, or dropping, or for settlement of accrued pension, are referred by the raters to the proper division for the action required, under the signature of the Chief of said Board of Review.

CLAIMS FOR RESTORATION OF INVALID PENSIONERS.

1. Restoration of a pension is, where the pensioner has failed, for any reason, to draw his pension for three years after it had become due, and his name, on that account or any other, except re-enlistment in the military or naval service of the United States, has been dropped from the rolls.

2. Where a pensioner's name has been dropped from the rolls by reason of any objection to the merits of the claim, no declaration for restoration is necessary; but where his name is dropped by reason of failure to claim his pension, a declaration is necessary, executed as in original claims. In addition to the allegations required in such claims the claimant must state the reason why he failed to claim his pension, and that the disability for which he was pensioned still exists.

3. The proof required in such cases is fixed by statute. (See section 4719, Revised Statutes, page 43 of Digest, and the decision of the Hon. Secretary of the Interior, cited in paragraph 12, under title of "Restoration," page 213 of the same.)

4. The evidence required is, satisfactory testimony accounting for the failure to claim pension, and medical evidence as to continuance of the disability for which pension was granted; and, as it must depend largely upon the character of the reason given, and all the surroundings of the case, no general rule can be laid down.

5. As has been said, the statute requires medical evidence of continuance of the disability. In cases where the disability is a wound or injury of such a character as will be likely to remain the same, a report of the medical examination is

accepted as sufficient to show continuance as well as condition at the time such report was filed. Where an invalid was pensioned for a disease or for a progressive disability, and during the period that such pensioner was not on the rolls he had medical treatment but cannot produce the evidence of the physician who rendered it, lay evidence of the fact of such treatment is accepted in lieu of the testimony of the physician, as being equivalent thereto and coming within the rule requiring medical evidence, provided the claim is supported by the report of a medical examination.

6. The amount of evidence required to show continuance is the same as in original claims. In reviewing those for restoration the same scrutiny is required as in original ones; and if for any reason it is found that the claim was improperly allowed in the first instance, a further requirement should be made, or the claim specially examined or rejected, as the evidence in the case may indicate. (See paragraph 3, under title of "Restoration," page 212 of the Digest.)

7. The office having the right to reject claims for restoration by reason of the original claims being improperly allowed, it must necessarily follow that the original action can be modified in accordance with the facts; therefore a claim may be restored at a less rate for future pension than that for which it was originally allowed. This point has been specifically decided in claims for renewal, and the same principle will apply in claims for restoration. The pensioner would be entitled to the same rate for the accrued pension as that granted in original allowance. (See paragraph 5, under title of "Restoration," page 212 of the Digest.)

CLAIMS FOR RENEWAL OF PENSIONS.

1. A renewal of pension is where the pensioner's name is dropped from the rolls by reason of re-enlistment in the military or naval service of the United States, and a claim is presented to be restored to the rolls.

2. In claims for renewal a declaration executed as in original claims is required; and, in addition to the allegations in such claims, subsequent service should be set forth

and the continuance of the disability alleged. A call should then be made upon the War Department for a report of the subsequent service, that a proper reduction can be made for the same. A call should also be made upon the Surgeon General to ascertain whether the claimant was treated in hospital during such subsequent service, whether such treatment is alleged or not, as it may be of benefit to the claimant as well as to the Government.

3. There are not many claims for renewal of pension; for those who were justly pensioned are as a rule so disabled as to render them unfit for subsequent military or naval service. A report from the Surgeon General may show continuance of original disability, and this will be the best evidence thereof, or such report may show no treatment for the disability claimed, which may be of such a character as to make it improbable that the claimant could perform such subsequent service while so disabled.

4. There is no statute or decision requiring medical evidence in claims for renewal. The same evidence of continuance is required as in original claims, but no such claim should be allowed over an adverse report of a medical examination. A claim for renewal may be allowed at a less rate for future pension than that for which it was originally granted, (see paragraph 3, under title of "Renewal," page 212 of the Digest), but the claimant will be entitled to the original rate for the accrued pension.

RE-RATING OF CLAIMS FOR INVALID PENSIONS.

1. Ruling No. 67 in regard to the subject of re-rating is as follows:

Hereafter no re-rating of pension will be made in any case, except as hereinafter provided:

1st. Cases of gunshot wound or injury, involving the loss of some part or member of the body, and causing a disability necessarily and absolutely permanent in degree, may be re-rated, provided the rating thereof was too low.

2d. Cases of disease in which the rating was a manifest error, as shown by the evidence in the case at date of the adjudication, provided the complaint or appeal shall have been filed within twelve months after such rating.

2. During recent years the laws governing the rating of pensions passed by Congress have been more liberal than formerly. Under instructions, the rates fixed by the Pension Office for disabilities not specified by law have been increased from time to time; therefore claimants whose cases were adjudicated some years ago were not granted as high rates as if they had been adjudicated at the present time. Every case must be adjudicated in accordance with the law in force at the time of such adjudication. (See paragraph 3, under title of "Laws, Construction of," page 183 of the Digest.)

3. A claim that has been adjudicated, and the rate granted in accordance with the law in force at the time, should not be re-rated or increased simply because a greater rate is granted now for the same disability, unless such increase is authorized by subsequent legislation; hence, in re-rating a case, no greater rate covering past years can be allowed during that period than was authorized by the law in force at that time, except such as has been stated. Great caution should be exercised in re-rating claims.

4. As has been said by the Hon. Secretary of the Interior concerning the reconsideration of former action of the office:

> It is an established rule of the Department not to disturb an adjudication of a claim by a former administration, except upon the most conclusive evidence that an error has been committed. (See paragraph 59 of the supplement to the Digest.)

This principle applies to all classes of claims.

5. To entitle a pensioner to a re-rating for a wound or injury the disability must be "absolutely permanent in degree," and it must appear that the rate granted was not adequate, and was lower than that to which the claimant was entitled at the time the case was adjudicated, as appears from the evidence then on file.

6. The questions which arise in such cases are: What was the pensioner's condition at the time when the pension was granted as shown by the facts then presented; and, has the disability progressed since that time in a material

degree? If so, a re-rating cannot be had. If the disability has not been progressive, and it was permanent, was the pensioner granted as high a rate as the evidence on file at the time pension was granted justified? If he has, re-rating must be denied. (See paragraph 4, under title of "Rating, Readjustment of," page 204 of the Digest.)

7. As has been stated in considering another subject, no former action of the office, where the question must be decided upon a mere opinion of the weight of evidence, should be reconsidered on a review of the same evidence. (See paragraph 23, under title of "Reconsideration," supplement to the Digest, and paragraph 59, heretofore stated.)

8. The real purpose of reconsidering the rate in any case is to correct a patent error, which has heretofore been defined to mean an error which becomes so manifest on a re-examination of the same evidence that the incorrectness of the former action, when special attention is invited to a specific point, is not a subject of controversy.

9. No other such error should be corrected.

10. A judgment formed upon the weight of evidence at a given time is entitled to the same consideration as the judgment formed upon the same evidence at a subsequent time.

11. Greater difficulty is experienced in determining the question of re-rating in a case where the disability is a disease than where it is a wound or injury. Most diseases are progressive, consequently claims therefor should not, as a rule, be re-rated. No claim for disease can be re-rated under the order cited unless the application is made, or the case appealed, within one year after adjudication.

12. The first question to be decided in such a claim is, whether there was a patent or manifest error. This point, as in other cases for re-rating, is to be determined by the evidence on file at the time of the original adjudication. If it appears that such error was committed, then the inquiry is concerning the condition of the claimant since the pension was granted to the present time, in order to determine whether the disability has varied in degree, and wheth-

er the rate covering the period for which the pension was granted, as well as for the future, can be safely, justly, and intelligently increased.

13. A re-rating is authorized where the proof shows that the pension allowed for that portion of the period since the date of discharge was not proportionate to the degree of disability then existing. (See paragraph 2, under title of "Rating, Readjustment of," page 204 of the Digest.)

14. No class of claims require more careful and judicious consideration than these; therefore the basis of the rate to be given in a case when re-rated should not be fixed by the medical reviewer without inviting the personal attention of the medical referee to the same, and the rater should cause it to be approved by the Chief of the Board of Review.

15. To determine the weight of evidence exhausts the best judgment, and when a conclusion has been obtained, such action should not be over-ruled unless the way is clearly discoverable without the aid of any other light than that reflected from the original status of the claim.

ADVERSE RECORDS.

1. Certificates of disability which are received as evidence adverse to an invalid claim for pension may be divided into three classes:

a. Those that are positively adverse, and in which sufficient reason therefor is fully given, signed by the captain of the soldier's company and his regimental surgeon.

b. Those that are positive in their character, but no reason therefor is given therein, and signed as aforesaid.

c. Those that are adverse, as the first and second classes, and in which a reason may or may not be given, and signed by a surgeon of a general hospital.

2. An adverse record of the first class cannot be overcome by parol evidence. The Hon. Secretary of the Interior has uniformly held that the rejection of an invalid claim upon such adverse record is proper. (See paragraph 10, under title of "Record, Adverse," page 207, and paragraph 14, under same title, page 208 of Digest.)

These certificates were issued by officers who were presumed to know the facts stated therein, for the reason that it was their duty to do so, and to make a record thereof, or cause it to be done, at the time.

3. To make a record positive in its character, so as to support the rejection of a claim, the facts upon which such certificate is based must be stated therein. For instance, a soldier may be discharged for a wound, injury, or disease, and the records state "not received in line of duty." This is not conclusive against the soldier, unless the facts be given, so that the question may be determined by the office.

4. The facts stated in such certificates are conclusive, but not the legal conclusions based thereon. If it be stated that the disability originated prior to enlistment, it may be conclusive, or owing to the character of the disability it may not. If such a description be given as to make it clear that the disability could not have been contracted since the soldier's enlistment, the record is conclusive against him. But if the facts are not stated, and the adverse record based upon a medical opinion whether the record is conclusive or not, it is a question for the personal consideration and decision of the Medical Referee. If such a record showing existence of disability prior to enlistment be held by the Medical Referee as not conclusive, the record can only be controverted by medical evidence; that is, the fact of prior soundness or origin in the service can only be established by such evidence. (See paragraphs 2 and 7, under title of "Records, Adverse," page 206 of Digest.)

5. Adverse records of the second class may be controverted by parol evidence, for the reason that the facts upon which the certificate is based are not given. As heretofore stated in the consideration of adverse records of the first class, the office is bound by the facts stated in these certificates, and not by the legal conclusions given in the certificates, where the facts upon which the same are based are not given; therefore, in the absence of the facts, parol evidence becomes competent to controvert the record. But when

such evidence is accepted, special care should be taken to obtain the very best obtainable. The character of the evidence required must depend upon the nature of the disability. As a rule, medical evidence should be produced before a claim is allowed over such an adverse record or the facts obtained by a special examination of the case.

6. Adverse records of the third class may also be overcome by parol evidence, for the reason that they were given by officers who were not in a situation to have personal knowledge of the facts which may or not be contained in the certificates, but upon which the medical opinion stated therein was based. (See paragraph 7, under title of "Records, Adverse," page 206 of Digest.) Where there is an adverse record of this class, special care should be taken to ascertain all the facts before such a claim is allowed over the record, for, though signed by the surgeon of a general hospital, it may contain such facts as to make it strongly adverse.

ADVERSE RECORDS ON CLAIMANTS' STATEMENTS.

1. Where a certificate of disability of any class contains statements of a claimant against his interest, in the absence of the most conclusive proof showing the falsity thereof, the same should be accepted as true. In such cases the same weight should be given to adverse records of the third class as of the first and second classes; for the reason that the officers signing the certificates of that class had the same means of information as those signing the records of the other classes had to obtain the statements of claimants concerning their disabilities.

2. Where a certificate of disability contains a statement made by the claimant that the disability for which he was discharged existed prior to enlistment, or for any reason was not due to the service, a claim for such disability should be rejected upon the record without making a call upon the claimant for proof. (See paragraph 3, page 206, and paragraph 12, under title of "Records, Adverse," page 207 of Digest.)

3. The claimant may, however, if he so desire, show that his own statements were false, and upon such showing his statement of record should not prejudice his claim. (See paragraph 1, under same title, page 206 of Digest.) But such a record should not be held to be controverted except upon the most satisfactory evidence of commissioned officers, or medical evidence, according to the character of the disability, or after the facts have been obtained by a special examination of the case.

4. Again, where a certificate of disability of any character shows claimant discharged for a specific disability and pension is claimed for one of a different character, such certificate is presumed to be adverse by reason of claimant's allegations; because it is reasonable to presume that if he was disabled, as alleged at the time of his discharge, record of such disability would have been made. Special caution should be observed in the consideration of such claims. While a claim for pension for disability not mentioned in such a certificate may be established by parol evidence, they should not be admitted except upon the best obtainable evidence and the most satisfactory proof. (See paragraph 6, under title of "Records, Adverse," page 206, and paragraph 48, under title of "Evidence, Sufficiency of," page 175 of Digest.)

ADVERSE ADJUTANT GENERAL'S REPORTS.

1. As has been stated, the Adjutant General is the exclusive judge of the enlistment, service, and discharge of a soldier. To obtain a pension the claimant must have been discharged from the service in which he contracted the disability for which pension was granted, otherwise no date for the commencement of such pension can be obtained. (See paragraph 5, under title of "Enlistment, Discharge," supplement to Digest.)

2. Where the report of the Adjutant General shows the claimant to be a deserter from the service in which he contracted the disability for which pension is claimed, said

pension cannot be granted unless it appear from the report that the soldier was discharged. A dishonorable discharge is no bar to pension. (See paragraph 5, under title of "Discharge," page 160 of Digest.)

3. Where a claimant incurs a disability in one service, re-enlists in and deserts from a subsequent one, the desertion is no bar to pension for a disability contracted in the first. (See paragraph 10, under title of "Desertion," page 156 of Digest.) Desertion from a prior service to that wherein the disability for which pension is claimed was incurred is no bar to pension if the soldier was discharged from the subsequent service (see paragraph 11, under same title, page 156, Digest); provided such subsequent service is not canceled by the Adjutant General and for that reason the report of such service does not appear in the case.

4. Again, the report of the Adjutant General may be presumed to be adverse by reason of the claimant's allegations; for instance, if the report shows the claimant, at the time the disability is alleged to have been contracted, absent on furlough or not present for duty for any reason, no pension can be granted unless the discrepancy be explained and corrected. Claimants and witnesses may make mistakes in dates after the lapse of so many years since the war, and proper allowance will be made therefor, and if honestly made they should not prejudice a claim. If it clearly appear that the disability was incurred in the service, an opportunity should be given the claimant to correct discrepancies as to dates if a mistake has been made and cause the allegations to conform to the record; but the greatest caution should be observed in permitting claimants to change their allegations.

5. Again, where the report of the Adjutant General shows the soldier present for duty on the rolls at the time he claims he was disabled, such record is presumed to be adverse; but may be controverted by parol evidence, for the reason that a claimant may be greatly disabled and still reported present for duty, and as a fact never received hospital

treatment; but, as in all other cases, before such claims are allowed the best obtainable evidence should be required and the proof should be satisfactory. (See paragraph 30, under title of "Evidence, Sufficiency of," page 172 of Digest.)

ADVERSE SURGEON GENERAL'S REPORTS.

1. In most cases the adverse reports of the Surgeon General are corroborative of the adverse reports of the Adjutant General, or are presumed to be so by reason of claimant's allegations.

2. Where a soldier alleges that he contracted a certain disability at a given time and place and the report of the Adjutant General shows the claimant absent and sick in hospital at the time alleged, but the report of the Surgeon General shows hospital treatment at such time for a different disability, the presumption is that the claimant is in error, and unless a satisfactory explanation can be given and upon a proper showing the discrepancies corrected, such claims should be rejected.

3. Again, a soldier may allege that he received hospital treatment at a certain time for a particular disability, and the report of the Surgeon General show that the claimant received treatment at the time alleged for a different disability than that claimed. In such cases allowance should be made for the fact that an incorrect diagnosis may have been made of the claimant's disability when he was received in hospital. As experience, however, has demonstrated that such records are in most cases correct, no claim should be allowed over such a one without medical evidence, according to the character of the disability, or satisfactory evidence of commissioned officers sustaining the claimant's allegations, or after the facts in the case have been obtained by a special examination.

CLAIMS OF WIDOWS FOR PENSIONS—ORIGINAL AND ACCRUED.

1. The basis of a widow's title to pension is an invalid right. That is, the soldier through whom the right to pen-

sion is claimed must have contracted a disability in the military service of the United States, and under such circumstances as would have entitled him to a pension, and died by reason of said disability either in the service or since discharged.

2. When a soldier's right to a pension has been established, to give title to his widow it must appear 1st, that he died on a certain date of a wound, injury, or disease contracted in the service; 2d, that the claimant was his lawful wife when he died.

DECLARATION OF A WIDOW FOR ORIGINAL PENSION.

A declaration of a widow for original pension should be executed in accordance with section 4714 of the Revised Statutes, and the execution attested by two identifying witnesses. The facts concerning the following points must be covered by allegation.

a. Widow of the soldier.

b. Marriage with the soldier, and maiden name of the widow, and whether any legal bar existed to said marriage.

c. Name of soldier, rank, service, cause of death, and the date thereof.

d. Names, and dates of birth of legitimate surviving children of the soldier, under sixteen years of age at his death, either by the claimant or by a former marriage.

e. Custody of the children.

f. Whether she in any manner engaged in, aided, or abetted the rebellion against the United States.

g. Remarriage.

PROOF IN CLAIMS OF WIDOWS FOR ORIGINAL PENSIONS.

1. When a soldier has died or dies in the military service of the United States, to give title to the widow of such soldier it must be proven that he contracted the pensionable disability in such service, and that he died by reason thereof. These points will generally be proven by the record, if the soldier died in the service. The question

whether the record shall be accepted as sufficient proof that the soldier contracted the disability of which he died in the service is determined by the rules which govern invalid claims.

2. In addition to the record such parole evidence may be required as the character of the disability and the surroundings of the case would make necessary in establishing an invalid claim for the same cause. As a rule, the immediate cause of death is accepted on the record; but if there be no military or public record of it, the cause must be shown by parol evidence, which should be the testimony of the physician or surgeon who treated the soldier during his last sickness and at the time of death.

3. In the irremediable absence of such evidence the testimony of two credible witnesses will be considered and generally accepted, provided the witnesses show themselves competent to testify to the death-cause and their testimony is in all other respects satisfactory.

4. If a soldier, not a pensioner, has died since discharge, whether he filed an application for pension or not, the widow must first establish his right by the evidence required to prove an invalid claim, the date of his death, and that it occurred by reason of the pensionable disability.

5. In such cases the death-cause should be proven by a public record, or medical evidence if it is possible to obtain the same, the testimony of one physician being generally sufficient to establish the point. If such testimony cannot be produced, the evidence of two credible witnesses who show themselves competent by their testimony will be considered and generally accepted.

6. To establish a widow's title in her own right, the basis of her claim otherwise having been made to appear, the first point required to be proven is, as stated, that the claimant was legally married to the soldier on account of whose service and death she claims pension.

7. Section 2 of the act passed by Congress August 7, 1882, amending section 4702 of the Revised Statutes, pro-

vides that: "Marriages, except such as are mentioned in section 4705 of the Revised Statutes, shall be proven in pension cases to be legal marriages, according to the law of the place where the parties resided at the time of marriage or at the time when the right to pension accrued."

PROOF OF MARRIAGE.

A marriage may be proven by the following testimony, and its weight is according to the order given:

a. By a verified copy of a church or public record.

b. By the affidavit of the clergyman or officer who performed the marriage ceremony.

c. By the testimony of two or more eye-witnesses of the ceremony.

d. By a verified copy of the church record of the baptism of the children.

e. Or, in a case where better cannot be had, a marriage may be presumed upon the testimony of two or more witnesses who know that the parties lived together as husband and wife for a number of years, acknowledged each other as such, and were so received by reputable persons in the community in which they resided; that is, such evidence—when better testimony cannot be had—will be accepted as evidence of the fact that a ceremony was performed.

LEGAL BAR TO MARRIAGE.

1. The widow is required to state in her declaration that there existed no legal bar to her marriage with the soldier. No proof is required upon this point other than such allegation, unless, of course, a doubt is raised by the facts developed in the case.

2. Special provision is made concerning proof of marriage of colored and Indian soldiers by section 4705 of the Revised Statutes (page 37 of the Digest), under which marriage is proven by showing that the parties "were joined in marriage by some ceremony deemed by them obligatory, or habitually recognized each other as husband and wife, and

were so recognized by their neighbors, and lived together as such up to the date of enlistment, when such soldier or sailor died in the service, or if otherwise to date of death."

3. A strict construction here would exclude the soldier's children by a former wife, but the Secretary of the Interior has decided that the soldier's children by a former wife shall be considered legitimate and pensioned, if the soldier and their mother were faithful to each other up to the date of her death.

DEATH OF SOLDIER.

The second point to be proven to give title to a widow is as stated, that the soldier died of the wound, injury, or disease contracted in the service, and the date of death. The proof necessary to establish this point has been given in considering the evidence necessary to show the basis of a widow's title.

LAWFUL WIDOW.

1. The third point required to be proven to complete a widow's title to pension is that the claimant is the lawful widow of such soldier. The claimant is required in her declaration for pension to aver that she is the widow of the soldier through whom she claims title to pension, and that she has not remarried, which declaration must be attested by two identifying witnesses. If such declaration has been filed within a reasonable length of time prior to the adjudication, no further evidence is required of continued widowhood; but if such declaration has been filed for a number of years, the testimony of at least one witness should be required who has personal knowledge of the fact that the claimant is still the lawful widow of the soldier through whom she claims title to pension, and that she has not remarried.

2. The amount of evidence necessary to prove such point, as in all other cases, must largely depend upon the facts developed in the case.

REMARRIAGE OF WIDOW.

Remarriage forfeits the widow's title to a future pension. (See section 4702 of the Revised Statutes, page 36 of the Digest.) But, (under section 4708 of the Revised Statutes, page 39 of the Digest,) a widow may, after remarriage, draw her pension up to and including that date, whether an application has been filed therefor before or afterward, provided that such widow has preserved her rights by filing an application at such time as required by law.

WHERE SOLDIER HAS FILED AN APPLICATION.

1. If the soldier had filed an application for pension, the widow, on perfecting the claim, will be entitled to the accrued pension due thereon, which will be allowed upon the same evidence and in the same manner as if he were living. Such pension will end on the day of his death, and the brief authorizes its payment to his widow.

2. In such cases the widow may establish the basis of her title by perfecting such claim, or by showing that the soldier contracted another and different disability in the service and died by reason thereof.

COMPLETION OF PENDING CLAIM.

1. In a case where the widow simply completes the pending claim, she will be entitled, on request, to receive the accrued pension without further testimony than to prove the fact and date of the soldier's death, and that she was his lawful wife when he died.

2. It may be that the said soldier did not die by reason of a disability contracted in the service, and therefore the widow would not be able to obtain a pension in her own right. The adjudication of the invalid claim in such cases should not be delayed to take final action in her own claim; but in the absence of a request for such delay, or of any special reason for it, both claims should be adjudicated at the same time, and the papers kept together.

WIDOWS OF PENSIONERS.

When a soldier who is a pensioner dies leaving a widow, she is entitled to the accrued pension due upon his certificate, on proof of his death and the date thereof, and that she was his lawful wife when he died. The fact of death and the date thereof may be established by the testimony of one or more credible witnesses. In such cases, if the pensioner died of the disability for which he was pensioned, or if he died of some other disability contracted in the military service and line of duty, the widow may establish her claim to a pension in her own right by showing these facts as heretofore indicated.

COMMENCEMENT OF WIDOW'S PENSION.

1. A limitation, which took effect July 1, 1880, as to the time of filing such declaration, as well as all others, was made by the statute passed March 3, 1879, except for the classes mentioned in said statute. (See Digest, page 69.)

2. A widow who remarried prior to July 1, 1880, to obtain pension to the date of such marriage must have filed her application within the limitation; and, inasmuch as such pension cannot begin at a date after remarriage, it necessarily follows that where a widow has remarried since July 1, 1880, and has filed no application, she can draw no pension; but if she had an application filed prior to her remarriage, although such application was filed subsequent to July 1, 1880, she can draw pension from the date of the filing of such application to the date of her remarriage.

3. If a soldier dies after discharge having a claim for pension pending, or dies in the service, or while a pensioner, the pension of his widow, if she is entitled, will commence on the day succeeding his death; but if he died after discharge without filing a claim, her pension will commence on the day of his death, provided in each of the cases mentioned she filed her application within the limitation, otherwise her pension will begin at the date of filing her application.

CLAIMS OF PENSIONED WIDOWS FOR INCREASE ON ACCOUNT OF MINOR CHILDREN.

1. A widow is entitled, in addition to pension in her own right, to two dollars per month for each surviving minor child of the soldier, provided such minor was under sixteen years of age on the 25th of July, 1866, if the soldier died prior to that date; or if he died subsequent to that time, and they were under that age at his death; the increase which is allowed on account of such minors is a personal right, terminating as the minors respectively become sixteen years of age, or in case of death.

2. All the facts concerning the minor children of the soldier by reason of any marriage should be set forth, as has been stated, by the widow of such soldier in her declaration for original pension, so that her rights on account of the children to the two dollars per month increase may be adjudicated at the same time. But if, for any reason, her rights on account of such minors are not so adjudicated after the widow has been pensioned, she may file a declaration for such increase on account of the minors.

DECLARATION OF A WIDOW FOR INCREASE.

The declaration of a pensioned widow for increase on account of minor children should be executed and witnessed in the same manner as the declaration of a widow for original pension, except that it need not be made before a court of record; and, in addition to the facts necessary to be set forth in the declaration of such widow, she should state that she is a pensioner in her own right, that she remains the widow of such soldier, that she has remarried, if such be the fact, that she has not willfully abandoned the support of any one of the children of the soldier by herself, and whether she has the care and maintenance of such children.

PROOF OF BIRTH OF MINORS.

1. The proof required of the widow to support such declaration is, to show the names and dates of the births of the children of the soldier through whom title to pension is

claimed. This may be done by the following testimony, which will be accepted in the order given, to wit:

a. By a duly verified copy of the church record of baptism or other public record.

b. By the affidavit of the physician who attended the mother.

c. By the testimony of one or more persons who were present at the birth. All witnesses should state their means of knowledge, and thus show that they were present or are otherwise competent to give the precise dates.

2. A widow is required to aver in her declaration whether the minor children still survive. Generally, no further evidence is necessary upon that point.

3. Special care should be taken to obtain an allegation accounting for all the legitimate children of the soldier under sixteen years of age who survived him, either by the widow claiming pension or by any former marriage. If the facts are not fully stated in the declaration, the same should be made to appear by affidavit. She receives it on account of her own children by him whether she has had the care of them or not, unless she is barred by proceedings under section 4706 of the Revised Statutes. "Abandonment" in that section means a willful or criminal neglect, and she cannot be deprived of her pension by any conduct toward the children of a former wife. But the increase allowed a widow by reason of the minors of a soldier by a former wife can only be drawn by her so long as she has the care and maintenance of such minors. In cases where such widow has not the care and maintenance of the child or children of her husband by a former wife and she, for any reason, has failed to apply for pension in her own right, the guardian of such child or children may obtain an increase of pension of two dollars per month for each minor child even during the lifetime of the widow.

BRIEFING CLAIMS OF WIDOWS FOR ORIGINAL PENSIONS AND INCREASE.

1. The greatest part of what has been said under title of "briefing claims for invalid pensions" applies to briefing

claims of widows for original pensions and increase; the chief difference being in the facts required to be stated on the face of the briefs. When testimony is to be briefed in any case it should be done as heretofore laid down.

2. Where an invalid claim accompanies a widow's claim, the evidence in the invalid claim being briefed, such evidence need not be spread upon the brief in the widow's claim, but there should be a reference on the brief in the widow's claim, with such a statement in regard to the evidence as may be necessary in each particular case. If no invalid claim has been filed, the proof necessary to establish such a claim must be filed in the widow's claim, and therefore must be necessarily briefed in connection with the direct evidence to establish the title of the widow.

3. The face of a brief in a claim of a widow for original pension should contain the following facts:

a. The character of the claim, name, and post-office address of the claimant.

b. That she is the widow of a soldier, giving his name, rank, service, date of enlistment, muster, and discharge, unless he died in the service.

c. Cause and time of his death, and the place thereof.

d. The date of filing the widow's application.

e. When her right accrued.

f. Marriage to the soldier, and, if he had a former wife, the date of the marriage and the death of such wife.

g. The names and dates of birth of all minor children of the soldier, living or dead, who were under sixteen years of age at the time of his death.

4. It should appear when said minors became or shall become sixteen years of age, and if any have deceased, the date of death; the date of the commencement of the pension should be stated, and the rate to be granted. The entries to be made upon the face of the brief in regard to attorneys are the same as in invalid claims. The date of submission should appear, and also whether the claim is submitted for "admission" or "rejection," and the brief be signed by the examiner.

5. If a widow was not allowed an increase for the minor children of the soldier at the time her claim for original pension was adjudicated, when such claim is presented the face of the brief should contain the same facts as that of a widow's claim, with the number of her certificate, and an additional statement as to the character of the claim and the facts concerning the pensioning of the widow.

6. The evidence in the widow's claim need not appear on such brief, except that relating to the dates of birth and death of the children. The date of the commencement of the pension should also appear, and the rate to be granted, which is in all cases two dollars increase for each minor child under sixteen years of age, surviving at the date of the death of the soldier through whom title to pension is claimed, if he died subsequent to July 25, 1866.

LEGAL AND MEDICAL REVIEW OF WIDOWS' CLAIMS FOR ORIGINAL PENSIONS, AND LEGAL REVIEW FOR INCREASE.

1. The legal and medical review of original claims of widows for pension, and legal review of increase, may be properly considered together, inasmuch as the duties of the respective reviewers have been specifically and separately considered in the review of invalid claims.

2. The observations made under the title of "Legal review of invalid claims," as well as "Medical," apply herein with the following qualifications, and in addition thereto but few points need be mentioned.

3. An invalid claim having been adjudicated, or the title of the soldier to pension having been determined, whether the claim of the widow requires medical review depends upon the evidence of the cause of death of the soldier. No medical review is required in widows' claims where the cause of death is entirely a question of fact, such as can be determined without the aid of a medical opinion—that is, where the cause of death is wholly covered by a public or military record. In such cases it is the province of the legal reviewer to determine all the questions.

4. All claims of widows other than described should be referred to the Medical Referee for a determination of the cause of death, the legal reviewer first passing upon all legal questions involved. It is the province of the medical reviewer, when the question is referred to him by the legal reviewer through the Medical Referee, to pass upon the immediate as well as the remote cause of death in widows' claims; but the legal reviewer must determine whether the soldier contracted a pensionable disability in the service. On this finding the medical reviewer must determine, as stated, whether the soldier died of such disability so contracted, or of a pathological sequence thereof.

5. In determining pathological sequences in claims of widows, the same evidence should be required and the same rules applied as in those for invalids. The proper entry to be made upon the brief by the medical reviewer is "medically established," or "not medically established," giving the immediate as well as the remote cause of death. He may, also, at his discretion, make a requirement for additional testimony in cases not established.

CLAIMS OF MINORS FOR PENSION—ORIGINAL AND INCREASE.

1. If a soldier has died under such circumstances as would have entitled his widow to pension, the legitimate minors of such soldier also become entitled, provided the rights of the widow do not intervene. That is, if such soldier left no widow, his minors become entitled to pension; or, if the soldier left a widow, when her title terminates the minors succeed to her rights.

2. Under the laws of most of the United States a minor is a person under twenty-one years of age. Under the pension laws he is a person under sixteen, and when he arrives at that age may apply for pension without the intervention of a guardian (see page 191 of the Digest, paragraph 18 under title of "Minors") but if he applies through a guardian, the latter will be recognized by the office.

DECLARATION FOR PENSION BY GUARDIAN OF MINORS UNDER SIXTEEN YEARS OF AGE.

A declaration of a guardian for pension of minors under sixteen years of age should be executed as declarations for original pension, and the following points should be covered by allegation:

a. Name, post-office address of the guardian, and that he has been duly appointed.

b. Name, rank, service, date and cause of death of the soldier through whom title to pension is claimed.

c. That the soldier left no widow, or, if he did, that she is dead or remarried, or for any reason her title has terminated.

d. That the father of the minors was legally married to their mother.

e. Names, dates of birth of all legitimate children of the soldier under sixteen years of age at the time of his death, and if any such minors have deceased, that fact should appear.

PROOF IN CLAIMS FOR PENSIONS OF MINORS UNDER SIXTEEN YEARS OF AGE.

1. To support the declaration heretofore set forth, the guardian should produce in evidence a copy of his letters of guardianship bearing the seal of the court making the appointment, together with the certificate of the court that such appointment has not been revoked, which certificate should state the amount of the guardian's bond.

2. If a soldier dies and leaves no widow, or if he left one who died or remarried without having filed an application, then the minors or their guardian must prove the necessary facts to establish an invalid claim; and to show their own right, it must be proven that their mother was the lawful wife of the soldier, the fact and date of her remarriage or death, or that in some manner she has been divested of her title. The cause and date of the soldier's death, and that it was due to a disability contracted in the service and line of

duty, must also be proven; the facts and dates of birth of the claimants, and that the soldier left no other minors under sixteen years of age at the time of his death than those for whom pension is claimed.

3. If the soldier left any minor under sixteen years of age who has since deceased, that fact should be presented. A guardian is not entitled on account of a child who died prior to the date of the application.

4. All these facts are proven by the same character and amount of evidence as is required to establish claims of widows for pension, original and increase. Remarriage is proven by the same evidence as marriage in original claims. The fact of the death of a widow or of either of the minors may be proven by the testimony of one or more witnesses having personal knowledge of the facts.

5. In all cases the rights of the minors concerning original pension and increase may be determined under a declaration for original pension, and upon the proof indicated; but if, for any reason, increase was not allowed when such claim was adjudicated, the minors may apply for increase as other pensioners; but as such claims are exceptional, no further consideration of them need be had herein.

ABANDONMENT OF MINORS.

Under section 4706 of the Revised Statutes, the abandonment of the children of a soldier by his widow, or her unfitness to have the care and custody of them, can only be proven by the certificate of the court having probate jurisdiction over the persons of such minors.

BRIEFING CLAIMS OF MINORS FOR ORIGINAL PENSIONS AND INCREASE.

1. When an invalid claim accompanies the claim of the minors, the evidence in the invalid claim need not be spread upon the brief in the minors' claim. The same rule applies where a widow's claim has preceded that of the minors' but in each case there should be a reference to the brief to the invalid claim, and also to that of the widow.

2. If no invalid application has been filed, the proof necessary to establish such title must be filed in the claim of the minors, and briefed in connection with the other evidence to prove the right of the minors.

3. The face of the brief in a claim of minors for original pension should contain the following facts:

a. The character of the claim, name, and post-office address of the guardian.

b. That they are the minors of the soldier, giving his name, rank, service, date of enlistment, muster, and also discharge, unless such soldier died in the service, and the cause and time of his death, with the place thereof.

c. If the widow's application has been filed in the case, the date thereof, date of payment to her if she received any part of the pension, and the reason why she is divested of title.

d. Names of the minors, living or dead, under sixteen years of age at the time of the soldier's death.

e. Dates of their birth and when they will have become sixteen years of age, and if any have deceased the dates of death.

f. The post-office address of those who are to be paid upon their own vouchers.

g. Date of filing minors' application, and appointment of the guardian.

h. The date of the marriage of parents of the minors, the facts concerning any former marriage of the soldier, and, if any, date of death of former wife.

i. The date of the commencement of pension should be stated, and the rate to be granted.

j. Entries in regard to attorneys are the same as in invalid claims.

k. The date of submission should appear, and also whether submitted for "admission" or "rejection," and the brief should be signed by the examiner.

4. If any minors have died prior to filing a claim for pension, their names as alleged and the dates of their birth should be placed on the face of the brief, but not in the list of those who are to be pensioned. All who died after the

claim was filed should be included with the living ones for pension; but if any died before reaching the age of sixteen, the time of death should be given instead of the date of majority, and the word "died" should be prefixed to the date. If any died after reaching the age of sixteen years, the fact and date of death need not appear among the dates, but should be noted elsewhere on the brief.

5. If any of the minors are daughters and have married, their married names should be given at the head of the brief. The daughters who married before the allowance of the claim, whatever their age may be or whether they have guardians or not, as well as all children who have arrived at the age of twenty-one, should always be paid on their own voucher. It is important in completing minors' claims to see that all children of the soldier are accounted for who could possibly share the pension.

COMMENCEMENT OF MINOR'S PENSION.

1. If a soldier dies after discharge having a claim for pension pending, or dies in the service, or while a pensioner, leaving no widow, the minors, if entitled, will be pensioned from the date of his death; but if he died after discharge, without filing a claim, their pension will commence on the date of his death. If he left a widow, the pension of the minors, except in cases under section 4706 and over-payments, always begins on the day after her remarriage or death, or on the day after her title has terminated. The minors of a soldier are pensioned from the day of his death if his widow dies without receiving a pension, no matter whether she made an application or not; but if she remarries, and is living, under no circumstances can they be pensioned from a date prior thereto; although if she remarries and dies without receiving her pension the minors are pensioned from the date of the soldier's death.

2. If the widow received her pension or any part of it, and then died, the minors are pensioned from date of her death. If a pensioned widow has drawn pension after remarriage, and had the care of the soldier's children for the time between remarriage and the date of last payment,

pension to the minors will begin on the day to which she was last paid. If she was not overpaid, and if she did not have the care of the children for the time mentioned, they are pensioned from the date of her remarriage.

3. In every case of remarriage, before the claim of the minors is allowed it is necessary that the date to which the widow was last paid should be ascertained by a call upon the Third Auditor of the Treasury.

4. The phrase "from the date of" any event means the day after such event.

5. No statute of limitation runs against minors; therefore their rights are not affected by the time of filing an application in any case.

6. As in the case of widows, an increase of two dollars per month will be allowed for each minor, but in no case can it commence prior to the passage of the act allowing such increase, July 25, 1866; therefore, though the commencement of original pension is governed by the rules heretofore set forth, when reference is made to the date of commencement of minor pensions it is to be understood that increase cannot begin prior to the date mentioned.

7. When a widow's name has been dropped from the rolls under section 4706 of the Revised Statutes, the minors of the soldier by such widow are entitled to the original as well as the increase pension; but when the minors arrive at the age of sixteen the widow again becomes entitled to the original pension. A widow's name cannot be dropped from the rolls under said section by reason of abandonment or by reason of being an unfit person to have the care and custody of the children of the soldier by a former wife, but the increase granted to such widow by reason of such minors can be paid to her only so long as she is charged with their care and maintenance, but the increase pension due to such minors can be paid to their guardian during the life-time of the widow when she does not have the care and maintenance of them, and even if she has not applied for a pension in her own right as has been hereinbefore stated, under the head of "Proof of birth of minors."

LEGAL AND MEDICAL REVIEW OF CLAIMS OF MINORS FOR PENSION—ORIGINAL AND INCREASE.

1. As minors succeed to the rights of the widow of a soldier when her title has terminated, the remarks under title of "Legal and Medical Review of Claims of Widows for Pension, Original and Increase," very largely apply herein. To avoid repetition, reference is had to the observations under said title.

2. Where a widow's claim has been adjudicated, the basis of the widow's title and the cause of the soldier's death having been determined, no medical questions arise upon the review of the minors' claim, the questions for consideration being only legal. Where a widow's claim has not been adjudicated, the same rule applies concerning the relations of the legal and medical reviewers to the case as has been given concerning widow's claims for original pension. In cases where the minors were not allowed increase upon the adjudication of the original pension, only legal questions are involved in the review of the claim.

CLAIMS OF DEPENDENT RELATIVES FOR PENSION.

1. If a soldier died of a disability contracted in the service under such circumstances as would have entitled him to pension, and leaves neither widow nor legitimate minor child, certain relatives of such soldier, if any survive, who were dependent in whole or in part on said soldier at the time of his death, become entitled. Under the statute granting pensions to dependent relatives, the mother of a soldier is first entitled, second the father, and third the orphan brothers and sisters under sixteen years of age. (See section 4707 of the Revised Statutes, page 38 of the Digest.)

2. A dependent mother is always pensioned from the date of the soldier's death, provided her application was filed prior to July 1, 1880; otherwise the pension will begin at the date of filing the declaration and cease at her remarriage.

3. If the mother was not dependent, and the father was, at the time of the soldier's death, the father becomes entitled during the life-time of the mother, and the commencement of his pension will be the same as that of a mother, as stated. If the mother was dependent, upon her death the father, if surviving, will, provided his application was filed within the limitation, be pensioned from the date of her death; otherwise the pension will begin at the date of filing the declaration.

4. Under the provisions of the section above referred to, "Upon the death of the mother and father, or upon the death of the father and the remarriage of a mother, the dependent brothers and sisters under sixteen years of age shall jointly become entitled to such pension until they have attained the age of sixteen years, respectively, commencing from the death or remarriage of the party who had the prior right to pension." The statute of limitation does not apply to dependent minors, and therefore does not affect the commencement of pension.

DECLARATION FOR ORIGINAL PENSION OF A MOTHER.

A declaration for original pension of a mother must be executed and witnessed as other declarations for original pension, and the following points covered by allegation:

a. Relationship and post-office address of the claimant.

b. Name, rank, service, cause and date of the death of the soldier.

c. Celibacy of the son.

d. Dependence in whole or in part.

e. Names and ages of other children, if any, of claimant.

f. Whether the husband is living or not, his age and physical condition from soldier's death.

g. That she has not aided or abetted the rebellion.

h. Whether her son through whom title to pension is claimed was a pensioner or not, or had filed an application at the time of his death.

i. If soldier's father has deceased, claimant should state whether she has remarried.

PROOF IN CLAIMS OF DEPENDENT MOTHERS.

To support a declaration the claimaint must establish her title in the following manner:

a. The basis of her title to pension by the same proof required to establish an invalid right.

b. In addition thereto she must show that the soldier left no widow nor minor child surviving.

c. That she is the mother of the soldier who died of a disability contracted in service, and date of his death.

d. That the claimant was dependent in whole or in part upon the soldier for support at the time of his death.

WHAT CONSTITUTES DEPENDENCE.

1. What constitutes dependence in one case may not in another. The number of the claimant's family, the place where she resides or resided, whether city, town, or country, must be taken into consideration as well as the surroundings of the family in all respects. The decisions reported in the Digest under title of Dependence need not be herein specifically considered.

2. Generally no claim of a mother should be rejected on account of non-dependence where the income from the proceeds of her own property, or that of her husband from all sources, or both together, has been or is *less than five hundred dollars annually*, and no such claim should be allowed where, from the sources mentioned, it exceeds seven hundred dollars.

CELIBACY OF SOLDIER.

1. The celibacy of the soldier and the relationship of the mother may be shown by the testimony of one or more credible witnesses, having personal knowledge of the facts.

2. The cause of death and date thereof may be shown by the same character and amount of evidence as is required in claims of widows for original pension.

PROOF OF DEPENDENCE.

1. To prove dependence, it must appear that prior to the death of the soldier his father died, or, if living, did not support the claimant:—

That she had no adequate means of support other than the proceeds of her own labor.

And that her son, provided he was over twenty-one years of age, in whole or in part contributed to or in some way recognized his obligation to so aid in her support; otherwise, no evidence of contributions is generally necessary.

The death of a father must be proven by one or more witnesses.

2. The claimant, having first proven the death of her husband, or that for any reason he did not support her, must next show that she had not sufficient property in her own right to furnish an adequate support.

3. The proceeds of the labor of a claimant are not to be charged against her, no account being taken of the same. The affidavit of the mother and the father making an exhibit of his property should also include an exhibit of hers, and the certificate of the officer mentioned, showing the taxable property of the father, should also state the facts concerning the property of the mother.

PROOF AS TO AMOUNT OF PROPERTY.

1. If the father was living, it should in all cases be ascertained whether, at the time of the soldier's death, and each year since, he had any property, and if so, what the income therefrom was during said years, and the amount of his earnings by labor or otherwise during such period. To obtain the facts concerning the property and income of the father, from all sources is often an exceedingly difficult matter. It should be ascertained from the claimant where she and her husband have resided during each year since the death of the soldier, and the claimant should show by her affidavit and that of her husband, a complete exhibit of his property during said period, and a certificate from the

proper officer at their place of residence having charge of the records relating to the taxation of property, showing the amount, if any, of property, real or personal, upon which the husband was assessed for taxation during each year since the soldier's death, but the commercial as well as the assessed value should be given, and if the real property is in farms a general description of size, fertility and productions should be set forth, as, in many instances, on account of remoteness, such property may not have a high commercial value, but still be productive and yield an ample support.

2. If the testimony of the claimant and her husband and the certificate of such officer tend to show dependence, the number of witnesses to perfect the proof, as in all cases, must depend upon circumstances. Where such affidavits and certificates are satisfactory, the testimony of two credible witnesses, having personal knowledge of the facts, will be sufficient to show dependence, provided it appears that the father of a soldier was disabled, or that he was a man of intemperate or such habits as would tend to indicate that he neglected the support of his family.

3. If the husband of the claimant was not living, no further inquiry need be made concerning the property of the claimant, provided the facts proved by her affidavit and said certificates show that the income of the property did not furnish an adequate means of support.

HUSBAND AN ABLE-BODIED MAN.

If the claimant's husband was an able-bodied man, cumulative evidence, either in the form of correspondence with the witnesses, inquiry of the postmaster, if practicable, or direct testimony, especially if the period of time covers a great number of years, should be required. If the claimant's husband was an able-bodied man, more than two witnesses generally, will of necessity be required, for it must be shown by the testimony of those with whom the father was associated in business what his income was during the period of time mentioned; and if he was a laboring man, his earnings must be shown by the testimony of his employers during the major part of said time. The number of witnesses must,

therefore, be governed by the physical condition of the father, the business in which he has been engaged, and whether he has resided in the same locality during the time specified, and whether he is living or dead.

PHYSICAL DISABILITY OF FATHER.

1. Where a father, by reason of physical disability, did not support his family, that fact is more satisfactorily established by medical evidence. The amount of evidence required in such cases to show physical disability must, necessarily, depend upon the character of the same; the number of witnesses must also depend upon the years to be covered by their testimony. Generally the testimony of one physician or two neighbors who, by their testimony, show themselves competent, supported by the report of a medical examination, will establish his physical condition.

2. It must be remembered that dependence of a mother does not rest upon the physical inability of her husband to support her. The question, so far as support from the father is concerned, is, did he as a fact support the mother of the soldier, not whether he was physically able to do so, for a husband though an able-bodied man may still fail to support his wife. It is a question that should always be investigated, for the reason that the physical inability of a father to transact business or to perform manual labor tends to show his incapacity to support his family. Therefore the nature and character of the disability and the extent to which he was disabled during the period since the death of the soldier should be made to appear.

3. If a father was sixty years of age at the death of the soldier, very little evidence is necessary to show his physical inability to support his wife and family, and especially is this true if he was a laboring man.

ABANDONMENT OF MOTHERS.

If the father permanently abandoned the support of soldier's mother, the fact and date of such abandonment may be established by the testimony of two credible witnesses.

CONTRIBUTIONS.

1. If the soldier lived with his mother when he enlisted, and was under twenty-one years of age at the time of his death, she is not required to produce any evidence that he recognized his obligation to, or did contribute toward her support.*

2. By the common law of this country parents are entitled to the earnings of their minor children. Though they are legally bound for the support of such children, the parents in return are entitled to the earnings of such minors.

3. Contributions to the support of a mother from a son over twenty-one years of age, or a recognition of his obligation to aid in her support, may be proven by letters of the soldier transmitting the same; or admitting his obligations by promising support, or expressing in any manner a desire to contribute when possible. The point may also be proven by the testimony of two credible witnesses.

4. The testimony showing that the soldier liquidated the obligation of his parents, or that support was furnished them upon his order, will be received as proof tending to show dependence.

5. Ruling No. 12, in regard to contributions, set out on page 254 of the Digest, is as follows:

A contract made by a soldier to support relatives who may become applicants for pension as dependent relatives, under the provisions of section 4707 of the Revised Statutes, shall not be taken to controvert the allegations of dependence and contribution, unless it is shown that the money or property consideration actually transferred by the claimant as his part of the contract was sufficient to, and did render the claimant independent of the soldier's support at the time of the transfer of the same.

A contract for support between a claimant and another, made subsequent to the death of the soldier on account of whom a dependent relative's pension has been granted or is claimed, shall operate to postpone the allowance of the claim, or suspend payment of the pension if already allowed, for such time as the claimant or pensioner shall receive the support contracted for.

6. It must be remembered that the mother is only required to show that she was dependent upon her son in part. If the mother had other sons, who contributed to her

* See decision of Secretary of the Interior in the case of Mary Ault, No. 33, in Supplement to the Digest.

support, and the evidence shows that she was in part dependent upon the soldier, the point is thus established.

DEPENDENCE OF COLORED PERSONS.

1. No distinction is made in the pension laws concerning the rights of dependent relatives whether they are white or colored. But great difficulty is realized in obtaining the facts in regard to the dependence of colored persons, owing to their condition of servitude at the beginning of the war of the rebellion. It has been decided by the Secretary of the Interior that dependence of a slave mother upon her master does not work the forfeiture of her right to pension. (See paragraph 11, under title of "Dependence," page 154 of the Digest.)

2. Owing to such servitude, where a mother was a slave her son as a rule did not contribute to her support prior to the time of his enlistment, or until the close of the rebellion; therefore the Secretary of the Interior has decided where the mother of a soldier was a slave, and the son, from the date of his enlistment to the date of his death, was separated from her by the lines of the army, and did not contribute to her support during such period of time, has no important bearing on the case under the circumstances. (See paragraph 17 under title of Dependence, page 155 of the Digest.)

3. To allow such claims there must be some evidence of contributions or a recognition of obligation to aid in the support of a mother on the part of her adult son at some period of time prior to his death, but in such cases great liberality in regard to the amount of proof should be practiced.

CLAIMS FOR PENSION OF DEPENDENT FATHERS.

If a soldier died under such circumstances as would entitle his dependent mother to pension, the dependent father of such soldier is also entitled on the death of the mother, or if she is not dependent, provided the soldier left no widow or minor child surviving.

DECLARATION FOR PENSION OF DEPENDENT FATHERS.

The declaration for pension of a dependent father should be executed as declarations for original pension. The following points should be covered by allegation:

a. Relationship to soldier, and post-office address of claimant.

b. Name, rank, service, cause and date of death of the soldier.

c. Celibacy of the soldier.

d. Marriage of the claimant to the mother of the soldier.

e. Death of the mother and the date thereof, or her non-dependence.

f. Dependence.

g. Names and ages of other children of the claimant, if any.

h. That he has not aided or abetted in the rebellion against the United States.

PROOF IN CLAIMS FOR PENSION OF DEPENDENT FATHERS.

1. The claim of a dependent father for pension must be established by the same character of evidence as is required in claims of dependent mothers:

a. That the soldier was the son of the claimant and died of a disability contracted in the service, and the date of death.

b. That the son left no widow or minor child.

c. Nature and extent of disability of the claimant during the period of time when the son contributed to the support of his father, and his condition thereafter to the time of adjudication of the claim.

d. The amount of claimant's property and the income therefrom, and all other means of support possessed by him during such period.

e. The claimant must prove the date of his marriage with the mother of the soldier, and the date of her death, by the same character and amount of evidence required to establish such points in other cases.

2. As has been stated, the father is entitled during the life-time of the mother if she is not dependent. A married woman holding property in her own right, her husband having no interest in the same, and she not being bound to support him, may be dependent upon his son, notwithstanding his wife may have a large estate. (See paragraph 6, under title of "Dependence," page 154 of the Digest.) The fact that the mother was divorced from the father has no bearing on the principle involved.

3. Non-dependence of a mother may be shown by her statement waiving her right in favor of her husband. It will be noted that a father to be dependent must be disabled to such an extent that he cannot earn a livelihood, and that the proceeds of his property and income from all sources did not furnish him an adequate support. (See paragraph 15 under title of Dependence, page 155 of the Digest.)

4. It is provided by statute that the income which is derived or derivable from the father's actual or possible manual labor should be taken into account in estimating his means of independent support.

5. In determining what constitutes dependence in claims of fathers the same circumstances concerning the surroundings of the family should be taken into consideration as in mothers' claims.

CLAIMS FOR PENSION OF DEPENDENT MINORS.

Where a soldier has died under such circumstances as would entitle his mother, and in the order of succession his father, to pension, on the death of both parents the minor children under sixteen years of age at the date of the death of the soldier become entitled, provided he left no widow or minor child.

DECLARATIONS FOR PENSION OF MINOR BROTHERS AND SISTERS.

A declaration for pension of minor brothers and sisters should be executed as other original declarations. The following points should be covered by allegation:

a. Guardianship.

b. Name, rank, service, cause and date of death of the soldier.

c. Celibacy of such soldier.

d. Names, and dates of birth of the claimants.

e. Dependence.

f. Marriage or death of the parents of the claimants.

PROOF IN CLAIMS FOR PENSION OF DEPENDENT BROTHERS AND SISTERS.

1. Dependent minors' title to pension must be proven by the same character and amount of evidence required to prove the same points in other cases:

a. That the guardian of the minors was duly appointed and qualified.

b. That the soldier, brother of the minors, died of a disability contracted in the service, and date of his death.

c. That the soldier left no widow or minor child.

d. The marriage of the father and mother of the minors and the dates of their births, and relationship to the soldier, and death of parents.

e. Dependence of such minors on the soldier for support.

2. The amount of property of the minors may be proven by a certified copy of the inventory and accounts current executed by their guardian, and filed in the office of the proper officer having probate jurisdiction of their estate, but the question as to the amount necessary to constitute dependence must depend upon circumstances, as in other dependent cases.

3. Generally, a minor the proceeds of whose estate does not exceed $300 will be considered as dependent. The marriage of a dependent sister forfeits her right to pension. (See section 4708 of the Revised Statutes, page 39 of the Digest.) But as the statute of limitation does not run against minors, married sisters, or other minors, may apply at any time for pension from the date of their brother's death, on whom they were dependent, to the time when they respectively shall have become sixteen years of age.

BRIEFING CLAIMS OF DEPENDENT RELATIVES FOR PENSION.

No specific rules need be given for briefing claims of dependent relatives other than to state that the testimony in such cases should be briefed in the same manner and form as in invalid claims, and also to specify the facts which should appear upon the face of the brief of the respective claims.

BRIEF OF MOTHER.

1. The face of the brief in a claim of a dependent mother should contain the following facts:

a. That she is the mother of the soldier, giving his name, rank, service, date of enlistment, muster and also discharge (unless he died in the service).

b. Cause and date of his death.

c. That he left no widow nor minor child.

d. Date when the mother's application for pension was filed and her right accrued.

e. Death of husband, if deceased.

f. The date of commencement of pension should be stated.

g. Rate to be granted.

h. Whether the claimant has remarried, and if so, the date thereof.

2. The entries to be made upon the face of the brief in regard to attorneys are the same as in invalid claims.

3. The date of submission should appear, and also whether the claim is submitted for "admission" or "rejection," and the brief should be signed by the examiner.

BRIEF OF FATHER.

The face of the brief in a claim of a dependent father is the same as that in a claim of a dependent mother, except the statement of relationship is changed to father, and under the title of incidental matter an entry should be made showing why the title of the mother has terminated or was defeated.

BRIEF OF DEPENDENT MINORS.

The face of the brief in a claim of dependent brothers and sisters is the same as that given of dependent parents, with the following exceptions:

a. Change of relationship to that of brothers and sisters.

b. The name and post office address of the guardian.

c. Names and dates of birth of the minors should be given, and the date when they became or shall become sixteen years of age.

LEGAL AND MEDICAL REVIEW OF CLAIMS OF DEPENDENT RELATIVES FOR PENSION.

1. The respective duties of the legal and medical reviewers in reviewing claims of dependent mothers are the same as in claims of widows for original pension, and no further observations concerning their duties need be made herein. If a dependent mother has perfected her claim, no medical question arises on a subsequent review of the father's claim, and the same rule applies in reviewing claims of minor brothers and sisters, where a parent's claim has been previously perfected.

2. If on a subsequent review of the claim of a dependent father or dependent brothers and sisters the question of the cause of death of the soldier has not been previously determined, the same rule applies concerning the respective duties of the reviewers as in claims of dependent mothers.

SPECIAL EXAMINATION OF CLAIMS FOR PENSION.

1. Under the provision of section 4714 of the Revised Statutes, as amended July 25, 1882, a special examination may be had of all classes of claims for pension, whether pending or adjudicated, when deemed proper by the office. Three classes of claims only should be specially examined:

a. Those in which the claimant has presented a prima facie case, and a well-grounded doubt arises as to the genuiness of the claim, whether the same be pending or adjudicated.

b. Those in which there is an adverse record of such a character that it may be overcome by evidence obtained through a special examination, the claimant having, upon ex-parte testimony of commissioned officers, or such medical evidence as may be required according to the character of the claim, presented a prima facie case.

c. All other cases where a claimant has presented a prima facie case, it appearing that the claim is meritorious, but the character of the evidence whether parol or record is not such as under the rules of the office is required to establish a claim for the particular disability alleged and the claimant is unable to comply with those requirements.

2. It is not to be understood that all such cases as mentioned *should* be specially examined, but only such *may* be examined. No claim of the first class mentioned should be examined unless the doubt referred to is well grounded and founded upon facts elicited by the office in the usual manner, or upon information voluntarily furnished by reliable persons, or upon the face of the papers.

3. It is not every discrepancy that appears in the evidence, or improbability that is claimed, that will justify a special examination. Only discrepancies of such a character, and such improbabilities, which raise a doubt and which claimants fail to satisfactorily explain, will justify a special examination. Before a special examination is had in cases of the second or third class, the office, upon the facts presented, should be satisfied that the claims are meritorious, but that under the practice of the office they are inadmissible.

4. The chief object of a special examination in any given case is two-fold:

a. To protect the office against claims which are not genuine.

b. To obtain the real facts in just and lawful claims which are inadmissible upon ex-parte testimony.

5. Admitted claims, except upon the special order of the Commissioner or a Deputy Commissioner, should not be withdrawn from the files and specially examined.

6. When a claim has been specially examined and rejected and rebutting evidence has been filed by the claimant, favorable action should not be taken by the office without a cross-examination of the witnesses giving the rebutting evidence.

7. The duties of a special examiner are delicate and important; he is charged with the protection of the interests of the Government and the rights of the claimant; he is not in any sense the attorney of either; his mission in all cases is to obtain the true facts, and without bias or prejudice for or against either party in interest report the same to the Commissioner.

8. Order No. 76, (see supplement to Digest) directs the proper form for a reference of cases for special examination. When a case has been referred for that purpose, it should not be delayed to obtain a further report from other Departments, unless there is a reasonable probability that information concerning its merits can be obtained. When the usual calls have been made and reports filed covering the information generally required, and it is possible that further facts may be procured, an additional call may be made, but the special examination should be had without awaiting the reply.

PENSIONS OF SOLDIERS OF THE REGULAR ARMY, AND THOSE WHO SUCCEED TO THEIR RIGHTS.

1. No distinction is made between the rights of soldiers who became disabled in the Regular Army prior to March 4, 1861, and those who contracted disabilities subsequent thereto, except as provided in Sec., 4694, R. S. p. 32, Digest.

2. The same character and amount of evidence is required to establish such claims as is necessary for disabilities contracted in the war of the rebellion, and the only difference in the practice between them is, that in those of the Regular Army the testimony of commissioned officers thereof in actual service is accepted without verification; and correspondence with all witnesses who are in the service is had through the Adjutant General's office, and not with the witnesses direct, as in other cases.

3. The rights of widows, minors, and dependent relatives of officers and soldiers of the Regular Army who have died by reason of a disability contracted since March 4, 1861, are the same as those of the war of the rebellion; but no provision is made for pensioning dependent relatives of those who have died of disabilities contracted prior to March 4, 1861.

4. To entitle their widows and minors to a pension such disability must have been contracted during a period of war.

NAVY PENSIONS.

1. The observations heretofore made have been chiefly applicable to army pensions, for disabilities contracted by soldiers since the 4th of March, 1861, and to the claims of those entitled by reason of the service of such soldiers. The distinctions relating to the granting of pensions to sailors during the same period, as well as of those disabled prior to March 4, 1861, will be treated herein.

2. When a claim for navy pension has been filed, to obtain a record of service the following facts should be remembered:

a. That the service of officers, is obtained from the Chief of the Bureau of Navigation.

b. Of seamen, from the Fourth Auditor of the Treasury.

c. Of marines, from the Commandant of the Marine Corps.

d. Of those mentioned under section 4741, Revised Statutes is obtained by a direct call upon the Secretary of the Treasury, through the Secretary of the Interior.

3. The record of disabilities is obtained from the Surgeon General of the Navy. When evidence of the disability of a sailor cannot be obtained from the Surgeon General of the Navy, information thereof may often be had from the log-book, in the office of the Chief of the Bureau of Navigation.

4. To establish a claim for navy pension the same character and amount of proof is required as in those for army pensions. Medical surveys when signed by the commandant of the ship and the surgeon thereof, are entitled to the same credit, if such surveys were made on the ship, the officers

having the opportunity for personal knowledge of the facts stated in such service, as certificates of disability in claims for army pension, when signed by the captain of the soldier's company and the surgeon of his regiment. Otherwise, their weight is similar to that of a certificate of disability issued from a general hospital. The testimony of commissioned officers of the navy are accepted without verification.

NAVY PENSIONS TO INVALIDS DISABLED SINCE MARCH 4, 1861, AND THOSE WHO SUCCEED TO THEIR RIGHTS.

1. The commencement of invalid navy pensions for disabilities contracted since March 4, 1861, and of those who succeed to their rights, is governed by the statute of limitation approved March 3, 1879. The rights of such widows, minors, and dependents are the same under the laws governing army and navy pensions, except in pensions granted under section 4741 of the Revised Statutes, page 48 of the Digest, which on certain conditions gives title to pension to the officers and seamen of revenue cutters, and those under the provisions of sections 4756, 4757, and 4761, Revised Statutes, end with the invalid right.

2. Certificates of pension are granted, as provided in the three sections last mentioned, upon the recommendation of the Secretary of the Navy, to a sailor making an application for pension to that officer, but it is not required to be made under oath. The Pension Bureau, however, requires that, for the purpose of identity, the claimant should execute a declaration in the same form and manner as in applications for original pensions.

3. Section 4694, of the Revised Statutes, page 32 of the Digest, governs the rights of sailors who have contracted disability since July 27, 1868, as well as those of the soldiers of the regular army.

NAVY PENSIONS TO INVALIDS DISABLED PRIOR TO MARCH 4, 1861, AND TO THE WIDOWS AND MINORS OF SUCH SAILORS.

1. Section 4728 of the Revised Statutes, page 45 of the Digest, gives title to pension to officers and seamen disa-

bled prior to March 4, 1861, mentioned therein; and section 4729 of said page of the Digest controls the order of succession to title when the invalid right has terminated, but to enable the widow or minors of sailors to procure a pension under the latter section the sailor must have died in the service.

2. The only other distinction which now exists between pensions provided by said section 4728 and those considered in the last chapter, is that of commencement. The rates granted in both classes are the same in cases where the pension begins subsequent to July 25, 1866. The commencement of all pensions granted under said section is governed by section 4713 of the Revised Statutes, page 41 of the Digest, which provides that:—

> In all cases in which the cause of disability and death originated in the service prior to the fourth day of March, 1861, and an application for pension shall not have been filed within three years from the discharge or death of the person on whose account the claim is made, or within three years of the termination of a pension previously granted on account of the service and death of the same, the pension shall commence from the date of filing, by the party prosecuting the claim, the last paper requisite to establish the same.

3. Therefore, if an application was filed within the time prescribed, the applicant would be pensioned from the date of the discharge of the invalid, or from the date of the death of the person through whom title to pension is claimed; but if the application was filed after three years from the sailor's discharge or death, or three years after the pension has terminated, then the pension will commence at the date of filing the last material evidence; but no arrears of pension can be allowed in claims admitted prior to the 6th day of June, 1866.

4. Loyalty in all claims for both army and navy pensions must be shown. This applies to original as well as to restoration claims, and to applications for pension for disabilities contracted prior and subsequent to the 4th of March, 1861. The only exceptions to this rule are those persons embraced in section 5 of act of Congress passed March 9, 1878. (See page 65 of the Digest.)

CLAIMS FOR PENSION OF INVALIDS DISABLED IN THE MEXICAN WAR, AND THEIR WIDOWS AND MINORS.

1. The right to pension of soldiers disabled in the Mexican war is governed by section 4730 of the Revised Statutes, page 46 of the Digest, and the right of their widows and minors by section 4731, on the same page of the Digest.

2. The commencement of such pensions is controlled by section 4713 of the Revised Statutes, page 41 of the Digest, which statute has been heretofore set forth.

3. The same character and amount of evidence is required to establish a claim for pension under this title as in claims for pension for disabilities contracted since March 4, 1861, with the exception that in all claims where there is no record, origin in the service must be shown by medical evidence or by the evidence of commissioned officers. Continuance also, in all cases, except such disabilities as may be proven by lay evidence under rules heretofore laid down, must be established by some medical evidence. Inasmuch as the period of time which has elapsed since the close of the Mexican war is very great, a greater amount of evidence is required to show continuance than in claims arising from disabilities contracted in the war of the rebellion.

PENSIONS TO THE SURVIVORS OF THE WAR OF 1812 AND TO THEIR WIDOWS.

1. Service pensions of $8 per month to certain survivors of the war of 1812 and to their widows are granted by the act passed by Congress February 14, 1871 (see sections 4736, 4737, and 4738 of the Revised Statutes, pages 47 and 48 of the Digest), and also by the act passed by Congress March 9, 1878. (See page 65 of the Digest.)

2. Those entitled under the first-mentioned statutes are officers, soldiers, and sailors who served for sixty days in said war and were honorably discharged, and who have never been pensioned for disability incurred in the service of the United States, and such officers and soldiers as were personally named in any resolution of Congress for any

specific service in that war, although their terms of service may have been less than sixty days; also, those who are in receipt of a pension of less than eight dollars a month for a disability incurred in said service, are entitled to the difference between the pension now received by them and that amount; provided they performed sixty days' service. The widows of such officers, soldiers, and sailors, if they were married prior to the treaty of peace which terminated said war, February 17, 1815, and have not since remarried, are also entitled. All service pensions granted under the first-mentioned statute are allowed from the date of the approval of that act.

3. Under the act passed by Congress March 9, 1878, the period of service required to entitle to pension was changed from sixty to fourteen days, and under said act, in addition to those above mentioned, the officers, soldiers, and sailors who were in any engagement in said war, are entitled to a service pension of $8 per month; and the widows of all persons named as entitled under the last-mentioned act, who have not remarried, are also entitled, from the passage of said act, without regard to the date of their marriage.

DECLARATION OF A SOLDIER OR SAILOR FOR SERVICE PENSION.

1. Declarations of soldiers or sailors for service pension should be executed as are declarations for original pensions, except where, by reason of the infirmity of age, the claimants are prevented from appearing before an officer having the custody of the seal of a court of record or a judge thereof; in such case the declaration may be executed before any officer authorized to administer oaths for general purposes. The following points should be covered by allegation:

a. Name, age, and post-office address of the claimant.

b. Rank and length of service.

c. Name of captain of his company or ship, and colonel of his regiment.

d. That he was honorably discharged, and the date thereof.

e. Place or places of residence since discharge.

f. Personal description at the time of enlistment.

g. That he did not aid or abet the war of the rebellion.

2. If a claimant has applied for service pension under the act of February 14, 1871, and afterwards applies under the act of March 9, 1878, no new declaration is required, other than a statement executed in the presence of two attesting witnesses, requesting that the pending claim may be adjusted under the act of March 9, 1878. This same rule applies to widows' applications.

3. Three points are required to be proven to establish title to service pension:

a. Service of the soldier or sailor for the period of time required by law, or that he participated in a battle during said war.

b. Identity.

c. That he was honorably discharged.

4. In claims under the act of February 14, 1871, loyalty must be proven. Proof of loyalty is not required in claims under the act of March 9, 1878.

5. The service of a soldier or sailor, that he was honorably discharged, and also the fact that he participated in a battle, is proven by the report from the officer of the proper Department. The service of soldiers of the militia, and volunteers in the War of 1812 is obtained by call upon the Third Auditor of the U. S. Treasury Department, and that of soldiers in the regular army is obtained in the same way as in other cases. In case such report fails to show the service of the soldier or sailor, but does show service of the organization to which he claims to have belonged, his service may be proven by the testimony of one commissioned officer, or two comrades who served in the same organization. Identity and loyalty may be proven by two witnesses. *

*NOTE: Calls for the service of the volunteers and militia in the Seminole War, the Florida and other Indian Wars and the Cherokee Removal should be made on the 2d Auditor of the U. S. Treasury Department.

DECLARATIONS OF WIDOWS FOR SERVICE PENSIONS.

1. The declaration of a widow for service pension must be executed as that of a soldier or sailor for such pension. The following points must be covered by allegation:

a. Name, age, and post-office address of the claimant.

b. That she is the widow of the soldier or sailor through whom title to pension is claimed.

c. Name, rank, and length of service of such soldier or sailor; captain of his company or ship, and the commander of his regiment.

d. A description of the soldier or sailor at the time of his enlistment.

e. Marriage with the soldier or sailor, the place where celebrated, the name of person by whom the ceremony was performed, and the claimant's maiden name.

f. Death of the soldier or sailor.

g. That she has not again married.

h. Place or places of residence since the discharge of her husband from service.

i. That she did not aid or abet the rebellion.

2. The necessary facts to establish an invalid right to a service pension having been furnished, the widow is required to prove:

a. The death of the soldier or sailor, and the date thereof, by the testimony of two witnesses.

b. Her marriage with the soldier or sailor, and continued widowhood.

c. If she claims under the act of February 14, 1871, such marriage must be proven by record evidence; but if the application is made under the act of March 9, 1878, it may be proven as in other claims for original pension. Sufficient has been said in reference to briefing and reviewing all classes of claims, in the consideration of army pensions for disabilities contracted in the war of the rebellion, to render unnecessary further remarks on that subject.

The following table shows the rates fixed by law for "total" and "specific" disabilities, and the rates fixed by the Pension Office for certain disabilities not specified by law.

RATES FIXED BY LAW FOR TOTAL DISABILITY.

ARMY.

	Per month.
Lieutenant-colonel and all officers of higher rank	$30.00
Major, surgeon, and paymaster	25.00
Captain, provost-marshal, and chaplain	20.00
First lieutenant, assistant surgeon, deputy provost-marshal, and quartermaster	17.00
Second lieutenant and enrolling officer	15.00
All enlisted men	8.00

NAVY AND MARINE CORPS.

Captain and all officers of higher rank, commander, lieutenant commanding and master commanding, surgeon, paymaster, and chief engineer ranking with commander by law, lieutenant-colonel, and all of higher rank in Marine Corps	30.00
Lieutenant, passed assistant surgeon, surgeon, paymaster, and chief engineer ranking with lieutenant by law, and major in Marine Corps	25.00
Master, professor of mathematics, assistant surgeon, paymaster, and chaplain, and captain in Marine Corps	20.00
First lieutenant in Marine Corps	17.00
First assistant engineer, ensign, and pilot, and second lieutenant in Marine Corps	15.00
Cadet midshipmen, passed midshipmen, midshipmen, clerks of admirals, paymasters, and of officers commanding vessels, second and third assistant engineers, master's mate, and warrant officers	10.00
All enlisted men, except warrant officers	8.00

RATES AND DISABILITIES SPECIFIED BY LAW.	From July 4, 1864.	From March 3, 1865.	From June 6, 1866.	From June 4, 1872.	From March 3, 1873.	From June 4, 1874.	From Feb'y 28, 1877.	From June 17, 1878.	From March 3, 1879.
Loss of both hands	$25 00	.....	.....	$31 25	.....	.....	.....	$72 00	.....
Loss of both feet	20 00	.....	.....	31 25	.....	.....	.....	72 00	.....
Loss of both eyes	25 00	.....	.....	31 25	.....	.....	.....	72 00	.....
Loss of an eye, the other lost before enlistment	.....	.....	$25 00	31 25	.....	.....	.....	72 00	.....
Loss of one hand and one foot	.....	$20 00	.....	24 00	.....	.....	$36 00	.....	.....
Total disability in one hand and one foot	.....	.....	20 00	24 00	.....	.....	36 00	.....	.....
Total deafness of both ears	.....	.....	.....	.....	$13 00	.....	.....	.....	.....
Loss of a hand or a foot	.....	.....	15 00	18 00	.....	.....	.....	.....	.....
Amputation at or above elbow or knee	.....	.....	15 00	18 00	.....	.....	.....	.....	.....
Amputation at hip joint	.....	.....	15 00	18 00	.....	.....	.....	.....	$37 50
Inability to perform manual labor	.....	.....	20 00	24 00	.....	.....	.....	.....	.....
Regular aid and attendance	.....	.....	25 00	31 25	.....	.....	.....	*72 00	.....
Total disability in both hands	.....	.....	25 00	31 25	.....	.....	.....	72 00	.....

* $72 from June 17, 1878, where the rate was $50 under Act of June 18, 1874, and granted to date prior to June 16, 1880. Act of June 16, 1880, allows $72 in cases where rate for disability, not specific, is $50 prior to June 16, 1880.

RATES FIXED BY THE PENSION OFFICE FOR CERTAIN DISABILITIES NOT SPECIFIED BY LAW.

Anchylosis of elbow joint	total.
Anchylosis of knee joint	total.
Anchylosis of ankle	$\frac{6}{12}$
Anchylosis of wrist	$\frac{6}{12}$
Double inguinal hernia	$\frac{6}{12}$
Inguinal, femoral, or ventral hernia	$\frac{4}{12}$
Loss of sight of one eye	$\frac{4}{12}$
Loss of thumb	$\frac{4}{12}$
Loss of great toe	$\frac{4}{12}$
Loss of great toe and second toe, three-fourths of great, second, and third toes, total of all the toes	total.
Loss of an index finger	$\frac{6}{18}$
Loss of a finger	$\frac{4}{12}$
Loss of a toe	$\frac{4}{12}$
Loss of thumb and index finger	$\frac{10}{18}$
Loss of index and middle fingers	total.
Loss of index, middle and ring fingers	$\frac{12}{18}$
Loss of all the fingers, the thumb and palm remaining	$\frac{14}{18}$
Loss of ring and little fingers	$\frac{6}{12}$
Loss of middle, ring, and little fingers	$\frac{10}{18}$
Total or nearly total deafness of one ear	$\frac{4}{8}$
Slight deafness of both ears	$\frac{4}{12}$
Severe or total deafness of one ear, and slight of other	$\frac{4}{12}$
Severe deafness of both ears	$\frac{4}{12}$
Total deafness of one ear and severe of other	$\frac{4}{12}$
Deafness of both ears, existing in a degree nearly total	$\frac{6}{12}$
Total deafness in cases where rate for a total disability is less than $13 per month	$13 00
Total deafness in cases where rate for a total disability is more than $13 per month	total.

Anchylosis of elbow joint, without complications, is given as a basis for a total disability according to rank; with complications, and any disability in its effects, disabling in degree more than total (where total of rank is $8 per month), and less than $18 per month, may be rated at $\frac{10}{18}$, $\frac{12}{18}$, $\frac{14}{18}$, or $\frac{16}{18}$.

The loss of a part of a hand or a foot, on a basis of $8 per month, would rate from total to $\frac{12}{18}$, $\frac{14}{18}$, $\frac{16}{18}$, to $18 or third grade.

The loss of one eye, affecting the sight of the other so as to result in total bliudness	$72 00

NOTE.—In office parlance, 1st grade is now $31.25; 2d grade is now $24; 3d grade is now $18.

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